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A regional-global security partnership: challenges and opportunities

Report of the Secretary-General

Summary

In paragraph 1 of its resolution 1631 (2005) the Security Council expressed its determination to take appropriate steps to the further development of cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security. In paragraph 10 of the same resolution it invited me to submit a report on the opportunities and challenges that this cooperation faces in the future.

The resolution reflects the growth of interaction between the United Nations and partner organizations. This includes annual high-level meetings that I convene with regional and other intergovernmental organizations, along with recent meetings of the Security Council with regional organizations. The culmination of such effort has been Security Council resolution 1631 (2005), the report of the sixth high-level meeting between the United Nations and regional and other international organizations, and the 2005 World Summit Outcome.

The opportunities before us lie in the establishment of a more effective partnership operating in close cooperation with the Security Council, based on a clear division of labour that reflects the comparative advantage of each organization. As important is the development of a programme of action for capacity-building across the globe.

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The challenges to be addressed are clarification of the identity and role of each member in this partnership and a programme of action for capacity-building to ensure more equal ability among United Nations regional and other partners around the world to assist in the maintenance of peace and security. To this end, I submit a number of recommendations in the report.

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I. Introduction

1. The Security Council in its resolution 1631 (2005) invited me to report on the opportunities and challenges facing the cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security. The present report is submitted in response to that request. I am submitting it also to the General Assembly as my recommendations regarding the prevention of armed conflict are a response to paragraph 37 of the annex to General Assembly resolution 57/337.

2. In its resolution, the Council also expressed its intention to hold regular meetings with regional and subregional organizations to strengthen cooperation in maintaining peace and security, ensuring that these coincide with the annual high-level meetings that I convene with heads of regional and other intergovernmental organizations. This will be achieved this year with both the seventh high-level meeting and the fourth Security Council meeting on the issue to be held in September.

3. Considerable importance has been attached to the potential for a strengthened relationship between the United Nations and partner organizations. At the fifth high-level meeting we agreed on a new vision of global security, one that draws upon the resources and legitimacy of a network of effective and mutually reinforcing multilateral mechanisms, both regional and global.

4. That vision was elaborated upon at the sixth high-level meeting. The challenge now is to articulate a common vision for a global architecture, interlocking such capacities based on comparative advantages and clear division of labour. We must intensify our dialogue on the nature of that system, always recognizing the central role of the Security Council, in accordance with Chapter VIII of the Charter.

5. Realization of this vision will not be achieved easily. It will require effort in organizational planning on all our parts. Nor will the process of strengthening the operational partnership be devoid of political implications. I hope that Member States can assist in contributing to this end. The present report is designed as a step towards that goal.

II. Development of the partnership (1994-2006)

6. It has long been recognized that the United Nations is not equipped to handle every crisis in the world on its own. It is acknowledged that a partnership between the United Nations and regional and other intergovernmental organizations should be developed if peace and security are to be maintained.

A. Early moves towards the partnership

7. Reflecting this new recognition, initiatives were taken in the early 1990s towards building such a partnership. In January 1992 the Security Council invited the Secretary-General to prepare recommendations on strengthening the capacity of the United Nations for preventive diplomacy, peacemaking and peacekeeping. This

was to cover the contribution by regional organizations, in accordance with Chapter VIII of the Charter, in helping the work of the Council.[1]

8. In his response to that request, my predecessor noted that, while the Council would continue to have primary responsibility for maintaining peace and security, cooperation between regional organizations and the United Nations would not only lighten the burden of the Council but would also contribute to deeper participation of regional actors in international affairs.[2] That was the spirit that generated the momentum to develop a regional-global security partnership.

9. The Security Council, in January 1993, invited regional organizations to study ways of strengthening their functions in peace and security and improve coordination with the United Nations.[3] The Secretary-General signalled his intention to develop guidelines governing such cooperation. That initiative was welcomed by the General Assembly.[4] That was followed in 1994 by a Declaration of the General Assembly stating that regional arrangements or agencies in peace and security should be encouraged, and, where appropriate, supported by the Security Council.[5]

10. These early developments laid the basis for the momentum towards building the regional-global partnership for peace and security of today. That movement has taken two important forms: high-level meetings chaired by the Secretary-General and recent thematic debates held by the Security Council.

B. High-level meeting process

11. Six high-level meetings have been convened between the United Nations and regional and other intergovernmental organizations from 1994 to 2005. The doubling of attendance testifies to the importance partner organizations attach to the process. Highlights of the process have been the following:

(a) Agreement on a pragmatic and flexible approach to the partnership;

(b) Recognition of the need for impartiality by partner organizations in dealing with conflicts in their regions;

(c) Agreement on 13 modalities for cooperation on conflict prevention;

(d) Identification of eight guiding principles for cooperation in peacebuilding;

(e) Recognition that interested regional and subregional organizations would pursue joint activities under Chapter VIII of the Charter, while other intergovernmental organizations would partner with the United Nations under its other provisions, reflecting the distinction made by the report of the Secretary-General's High-level Panel on Threats, Challenges and Change[6] to that effect;

(f) Establishment of six working groups to prepare the high-level meetings more carefully at the working level.

[1] S/23500.
[2] A/47/277-S/24111, para. 64.
[3] S/25184.
[4] General Assembly resolution 48/42, para. 63.
[5] General Assembly resolution 49/57, annex, para. 5.
[6] A/59/565.

12. Furthermore, at the sixth high-level meeting held in July 2005, a study was commissioned on the capacities of partner organizations to cooperate with the United Nations in peace and security. To accelerate progress in strengthening the partnership, participants also agreed to meet annually, to coordinate meetings with the relevant thematic debates of the Security Council, and to establish a standing committee to act as an initiator of ideas, a mobilizer of political will and sustainable direction, and a monitor of implementation of decisions made.[7]

C. Thematic meetings of the Security Council

13. In welcoming the report of the Secretary-General entitled "Supplement to an Agenda for Peace" (A/50/60-S/1995/1), the Council in 1995 reaffirmed the importance it attached to the role that regional organizations and arrangements could play in peace and security. It underlined the need for effective coordination between their efforts and those of the United Nations in accordance with Chapter VIII of the Charter.[8]

14. It was not, however, until later that the Council took up the theme of cooperation with regional organizations. Upon completion of the fourth high-level meeting in February 2001, the Council issued a statement further encouraging the United Nations and partner organizations to establish consultative processes to ensure that peace settlements mediated by them included commitments by the parties to concerted action in different areas of peacebuilding.[9]

15. Since then the Council has convened three meetings with regional and subregional partners.

16. The first meeting was held in April 2003. The Council discussed the response to new challenges to international peace and security. Despite a feeling of crisis at the time, the Council agreed that its primary responsibility and authority had to be reaffirmed and that a dynamic relationship between the regional organizations and the Council needed to be developed, based on the provisions of Chapter VIII of the Charter.[10]

17. The second meeting was held in July 2004. The Council acknowledged the important role that regional organizations could play in the prevention, resolution and management of conflicts. Coordinated efforts in stabilization processes should be based on complementarity and on responding to the comparative advantages of regional organizations.[11]

18. The third meeting was held in October 2005. The Council adopted its first resolution on cooperation with regional and subregional organizations, resolution 1631 (2005), which is the subject of review in section E of the present report.

[7] A/60/341-S/2005/567, annex 1, para. 7.
[8] S/PRST/1995/9.
[9] S/PRST/2001/5.
[10] S/PV.4739.
[11] S/PRST/2004/27.

D. Current operational cooperation

19. As a result of the guidance given by the high-level meetings and Security Council meetings, some significant operational cooperation in the area of peace and security has been developed between the United Nations and partner organizations. The sections below describe the measures currently being undertaken in conflict prevention, peacemaking, peacekeeping, peacebuilding and special areas of disarmament and non-proliferation, the protection of civilians and natural disasters.

Conflict prevention

20. While conflict prevention remains the primary responsibility of Member States, most regional and subregional organizations undertake conflict prevention measures. In Africa the African Union (AU), the Intergovernmental Authority on Development (IGAD), the Economic Community of West African States (ECOWAS) and the South African Development Community (SADC), and in Europe the Organization for Security and Cooperation in Europe (OSCE) and the European Union (EU) maintain conflict prevention centres with early warning systems. Regional efforts are context-specific and reflect different norms, priorities and resources. Often regional agencies have credibility as local actors to encourage their members to adhere to accepted international and regional norms. The international community benefits from the innovative approaches of regional organizations and from the knowledge of effective prevention strategies that are acquired in one region and that could be shared elsewhere in the world.

21. As the preliminary results of the survey on the capacities of partner organizations conducted by the United Nations University Comparative Regional Integration Studies programme have shown that capacity exists in conflict prevention both in constitutional mandates and operational mechanisms in all such organizations. This holds great potential for building an effective interactive process between the United Nations and its partners.

22. The United Nations experience in conflict prevention should be shared with partner organizations. This idea is elaborated upon in my 2006 report on conflict prevention, which has been submitted to the General Assembly. The report concludes with a number of recommendations that include suggestions for addressing systemic sources of tension, strengthening global norms and institutions for peace, reducing specific risk factors and enhancing national infrastructures of peace.

23. I also recently sent an interagency team to ECOWAS and the Organization of American States (OAS), with Canadian support, with a view to exploring ways in which the United Nations could establish partnerships with those organizations. In response to paragraph 37 of the annex to General Assembly resolution 57/337 and decisions taken at the third high-level meeting in 1998, the missions built on ongoing United Nations activities and discussed joint action plans for the future. I believe that similar missions to other partner organizations might be of considerable importance in enhancing practical advances in this field.

24. Respect for human rights is also central to conflict prevention. Most conflicts have been preceded by periods of their systematic violation, abuses of human rights and gradual degradation of institutions for the promotion and protection of human rights. Building regional capacity for protection, especially resilient institutions,

have become one of the strategic goals of our partnership with subregional organizations. This partnership has been sustained through the establishment of regional offices around the world and a subregional centre for human rights and democracy in Central Africa based in Yaoundé.

25. The United Nations is willing to engage in dialogue with partner organizations on how to advance the process of building a global-regional mechanism in conflict prevention. For instance, the desk-to-desk dialogue on conflict prevention between the United Nations and the European Commission was launched in Brussels in 2003. Since then, four dialogues have taken place. The sixth United Nations-OSCE staff-level meeting was organized in May 2006. A first desk-to-desk dialogue between the United Nations and the Council of Europe took place at United Nations Headquarters in 2005. These consultations could be expanded to other regions. Other examples of potential synergy are the early warning and response systems in IGAD and ECOWAS, whose experiences could be shared with others.

26. The work of the United Nations system in conflict prevention has evolved to include an integrated, multi-sectoral approach, creating opportunities for interaction at the regional level. The United Nations is exploring new ways to partner with the development sectors of regional and subregional organizations. Utilizing the comparative advantages of participating partner organizations, future consultations will introduce new processes for building national capacities for mediation, conflict analysis, conflict-sensitive development, as well as dialogue and decision-making processes in fragile and post-conflict societies, supported both by partner organizations and the whole United Nations system.

Peacemaking

27. Through my good offices the United Nations has sought to promote solutions to disputes in all regions of the world, while recognizing the unique requirements of each. I wish at this juncture to acknowledge with appreciation how often regional organizations are in the lead in peacemaking. It is my expectation that the United Nations will be able to continue to support them in these endeavours in the future.

28. Special mediators remain the primary means by which the United Nations can assist Member States to resolve conflicts peacefully. In this context, the United Nations has worked closely with IGAD on Somalia and the Sudan; ECOWAS on Sierra Leone and Liberia; the African Union on Burundi, the inter-Congolese dialogue, and the convening of the International Conference on the Great Lakes Region and the conference on Darfur in the Sudan. We have also worked closely with the EU on the elaboration of the agreement on the comprehensive settlement of the Cyprus problem, and with the Association of Southeast Asian Nations on Cambodia, East Timor and Myanmar, as well as the North Atlantic Treaty Organization (NATO) and OSCE in the Balkans subregion.

29. While much progress has been achieved, many challenges remain. First is the challenge for regional organizations and the United Nations to coordinate effectively at the operational level. I have often stated that the United Nations claims no monopoly on the settlement of disputes. There may be times when it would be better for other mediators such as those from regional partners to handle a given situation.

30. The second challenge is the issue of capacity. Not all partner organizations are equally endowed. Sometimes the best-placed organizations may lack the capacity to support the peacemaking initiative effectively. Peacemaking does not only require the appointment of an effective peacemaker, often many technical experts and logistics and financial support are required to support a peacemaking initiative over a few years. I therefore welcome the efforts of Member States and regional agencies and arrangements to share resources and jointly coordinate our activities in our common purpose to resolve conflict peacefully.

31. I recommended to the General Assembly last year that the mediation capacity of the Department of Political Affairs be strengthened with a dedicated unit. The Department's core mediation support capacity, for which the General Assembly approved start-up resources, will serve as a repository of past experience and assist partner organizations to resolve conflict peacefully. This will provide greater opportunity for the United Nations to liaise with partner organizations in peacemaking. To strengthen our cooperation, the Department will soon launch a systematic region-by-region analysis of mediation experiences in order to draw practical conclusions and develop useful tools.

32. The Department is also developing a web-based peacemaking databank tool for international peacemaking professionals, as part of an effort to reinforce its capacity to provide timely advice in the resolution of international disputes and internal conflict. The site will contain peace agreements, lessons on the management of peace processes and operational guidance for future efforts of peacemaking practitioners. It will be a useful tool to our regional and other intergovernmental partners engaged in peacemaking efforts around the world.

Peacekeeping

33. Regional organizations have become important contributors to international efforts to assist States in the transition from armed conflict to sustainable peace. There has recently been dramatic growth in partners' engagement in peacekeeping as one crucial element of this wider activity, particularly in Africa and Europe.

34. I welcome this engagement. It reflects, first, the sustained global demand for peacekeeping. Second, it is testimony to the commitment of the United Nations membership to the multilateral management of peace and security and to our collective will to support societies emerging from conflict. Third, it provides an opportunity for us to improve support to those societies emerging from armed conflict through peacekeeping. The contribution regional actors bring to this global effort may include unparalleled knowledge of a particular region, expertise in a particular issue area, and personnel and material resources.

35. A representative list of regional and other partners that have collaborated politically or co-deployed with United Nations peacekeeping operations includes the AU in Burundi, Ethiopia and Eritrea, the Democratic Republic of the Congo and the Sudan; ECOWAS in Côte d'Ivoire, Sierra Leone and Liberia; the EU in Kosovo, the Democratic Republic of the Congo and the Sudan; the Commonwealth of Independent States and OSCE in Georgia; NATO in Afghanistan and Kosovo; and OAS in Haiti.

36. Operational cooperation has taken place in many diverse ways. In some cases, such as in Liberia in 2003, we have seen a transition from a regional operation — in

that case ECOWAS — to a United Nations operation. In other contexts, such as Kosovo or the Democratic Republic of the Congo, we have coordinated separate operations side by side. In Haiti, OAS has provided support within the context of a United Nations-led mission. In Darfur, Sudan, ongoing United Nations-African Union peacekeeping cooperation has taken a new dimension in the context of United Nations support for an African Union-led operation, the African Union Mission in Sudan. The latest example of the diversity of potential models of operational cooperation between United Nations peacekeeping and regional entities is the EU Force operation to provide support to the United Nations Organization Mission in the Democratic Republic of the Congo and the Congolese people during the forthcoming election period.

37. The hallmarks of these diverse experiences are multifold. The first, the continuity of partnership: ongoing dialogue and engagement across the range of peace and security challenges enable our operational cooperation in specific contexts. The second feature is flexibility: the fact that we cooperate in diverse ways points to collective recognition that there is no one-size-fits-all approach, either to the diagnosis of peace and conflict challenges or the proposed prescriptions to address them. A third hallmark is openness: transparency before the perspectives and preferences of the peoples we seek to assist through the deployment of international peacekeeping operations. If we do not reflect their concerns and their hopes, then our collective endeavour, whatever form it takes, will be fruitless.

38. I suggest three broad goals for the coming years:

- We should promote capacity. At a time of sustained peacekeeping demand, particularly in Africa, increased regional capacity for effective action, undertaken within the framework of the Security Council's primary responsibility for peace and security, can enhance the ability of the international community to respond to conflict.
- We should target our capacity-building efforts. This includes common standards on the principles and practice of peacekeeping so that we provide consistent, effective support wherever peacekeeping operations are deployed and we can work productively together on the ground.
- Most importantly, we should reinforce a collective approach to security. The development of regional capacity should lead to a net gain in the promotion of peace and security; it does not absolve any of us of our responsibilities under the Charter to assure an effective response to conflict, wherever it occurs. At times, a regional response may be the best means to prevent or end conflict; at other times, direct involvement of the United Nations, either alone or with regional partners, may be the only way to act effectively.

Peacebuilding

39. The recent positive developments with regard to peacebuilding stem from the recognition that security, development and human rights are the pillars of the United Nations system and foundations for sustainable peace. A key development in this regard is the establishment of the Peacebuilding Commission, whose main purpose is to bring together relevant actors to marshal resources and propose integrated strategies for post-conflict peacebuilding and recovery.

40. There is an evident regional dimension to peacebuilding, and the enabling resolution[12] makes direct reference to partner organizations and regional financial institutions as key stakeholders in the peacebuilding process in countries emerging from conflict. Regional and subregional organizations are expected to play a significant role in support of the work of the Commission. In particular, regional organizations will help ensure that a coordinated and integrated approach is taken to address the peacebuilding needs of those countries under consideration.

41. Regional organizations must play a significant role in the new Peacebuilding Commission, and I hope that the Security Council might consider ways in which it could make an appropriate contribution.

Disarmament and non-proliferation

42. In various forums, the United Nations continues to recognize the importance of regional approaches to disarmament and security, affirming that global and regional approaches to disarmament complement each other and should be pursued simultaneously to promote regional and international peace and security.

43. I welcome the fact that regional and subregional cooperation to stem the flow of illicit weapons across national borders is on the rise. I also welcome the collaborative efforts of the United Nations and regional stakeholders to implement the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, build necessary capacities and provide required assistance.

44. I also consider that significant progress can be achieved in promoting the universality and full implementation of multilateral disarmament treaties related to weapons of mass destruction, as well as in facilitating efforts aimed at the establishment of nuclear-weapon-free zones. The close relationship between the United Nations and intergovernmental partner organizations offers an example of potential synergy and success.

45. I support the United Nations dialogue with interested partners on measures to combat the proliferation of nuclear, chemical and biological weapons, as well as their means of delivery. I believe that such measures are key components of the efforts to prevent the access of non-State actors to weapons of mass destruction-related materials and technology, including in the context of the implementation of Security Council resolutions 1540 (2004) and 1673 (2006). I also believe that further progress can be achieved through United Nations interaction with regional and other intergovernmental organizations to design and undertake outreach activities aimed at raising awareness and, as appropriate, facilitate the provision of assistance and cooperation to strengthen States' national capacity to implement their obligations.

46. The United Nations possesses a wealth of expertise, experience and knowledge in the field of disarmament and non-proliferation, which it is ready to share. I also believe that it is important that the synergies between regional and subregional organizations and existing United Nations regional mechanisms and infrastructure, including the three United Nations regional centres for peace and disarmament, be

[12] General Assembly resolution 60/180, paras. 7 (e), 11 and 19.

fully utilized with a view to avoiding duplication of efforts and ensuring a greater impact of disarmament and non-proliferation measures.

Protection of civilians

47. Today's conflicts have developed regional dimensions and created new dynamics that extend well beyond the border of a single country. Neighbouring States and regional organizations have already played an essential role: facilitating mediation and brokering peace agreements; supporting the demobilization of armed groups; controlling the proliferation of small arms; and addressing the needs of the displaced. Other protection issues such as human trafficking and the illegal exploitation of natural resources are not confined to State control and require regional mechanisms and commitments to be properly addressed. For example, the African Union Mission in the Sudan currently works in close coordination with the United Nations to provide protection for civilians in the Darfur region, which has led to measurable improvements in the security of women and children and displaced populations.

48. Over the next three years the United Nations will work closely with partner organizations in the protection of civilians. The objective is a consultative network with interested partner organizations to identify options for a common framework on protection of civilians in armed conflict, based on agreed core policies and legal elements.

49. This activity will support a series of workshops focusing on protection, with the aim of defining the roles of regional and subregional organizations, and identifying areas where they need specific capacity-building support. The first will be held in Dakar in early 2007, hosted by the Government of Senegal in collaboration with the Special Representative of the Chairman of the African Union Commission for the protection of civilians, and supported by the Office for the Coordination of Humanitarian Affairs Regional Office.

Natural disaster relief

50. Disasters are often regional in scale, and therefore require regional efforts to reduce risk. In order to ensure coherence and complementarity at the global level, I request that regional organizations, which have a critical role to play in humanitarian and emergency relief operations, coordinate closely with the United Nations Emergency Relief Coordinator. This is necessary to ensure that collective efforts meet internationally agreed guidelines and methodologies, benefit from lessons learned and best practices, avoid competition for resources or collision of mandates and ultimately build effective partnerships.

51. Regional networks can play an important role in the following ways: sharing and harmonizing best practices; facilitating coordination between national disaster agencies; engaging in regional training and exercises; providing additional local capacity; leveraging disaster response on national political agenda, including disaster mitigation work; advocating regional concerns at the international level; and pooling resources in order to provide immediate logistical support after a disaster.

52. In addition to these ongoing efforts with regional organizations to strengthen natural disaster preparedness and response, I plan to build on existing regional

disaster response mechanisms and to ensure that disaster response mechanisms are developed in organizations where they do not exist. This will include increasing regional capacities, the development of standby and deployment capacity and developing cooperation and coordination mechanisms.

E. Progress in realizing the goals of Security Council resolution 1631 (2005)

53. In its resolution 1631 (2005), the Council expressed its determination to take appropriate steps to the further development of cooperation between the United Nations and partner organizations in maintaining peace and security. The Council identified the following areas for specific action:

(a) Standby arrangements

54. Paragraph 1 of the resolution invited regional and subregional organizations that have the capacity for peacekeeping to place such capacities under the United Nations Standby Arrangements System (UNSAS).

55. At the global level UNSAS includes a list of capabilities that could be deployed at short notice to United Nations missions (30-90 days). UNSAS has functioned as a mechanism to submit information on national capabilities, which is regulated through a generic memorandum of understanding signed between the United Nations and Member States. To increase the effectiveness of UNSAS, particularly urgent rapid deployment requirements, the Secretariat is reviewing the system with a view to its possible adaptation.

56. At the regional level it is only in Africa that arrangements for standby peacekeeping forces are currently under way. The AU is planning to develop an African standby force by 2010, based on five subregional brigades of between 3,500 and 5,000 troops each. Whether such a regional standby arrangement might feasibly be transferable to UNSAS needs more discussion.

57. Meanwhile, some regional or other intergovernmental organizations undertake peacekeeping operations within their regions on an ad hoc contributing basis, using national contingents (CIS in Tajikistan, 1993, and Georgia, 1994; EU in Macedonia, 2003, and Bosnia-Herzegovina, 2004; and the Pacific Islands Forum (PIF) in Solomon Islands, 2003). The EU has contributed, under Security Council authorization, to a peacekeeping force beyond its region (Democratic Republic of the Congo, 2003), as has NATO (Bosnia-Herzegovina, 1995; Kosovo, 1999; and Afghanistan, 2003).

58. The Secretariat is exploring with regional organizations that have peacekeeping capacities the possibility for greater knowledge and information-sharing on respective capabilities and the potential interest of regional organizations to participate in United Nations peacekeeping missions. This work will continue with all of our relevant partners.

(b) Rapid deployment

59. The 2005 World Summit Outcome and paragraph 3 of Security Council resolution 1631 (2005) stressed the importance of enhanced rapidly deployable capacities to reinforce United Nations peacekeeping operations in crises. Member

States pointed to the potential assistance that might be provided in this area by regional organizations as well. The Special Committee on Peacekeeping Operations has also requested the Secretariat to continue to develop options for enhanced rapidly deployable capabilities, one of which is engaging regional capacities in short-term support of United Nations peacekeeping operations.

(c) Small arms and light weapons

60. Paragraph 4 of Security Council resolution 1631 (2005) stressed the potential role of regional and subregional organizations in addressing the illicit trade in small arms and light weapons. Within the global framework of the implementation of the 2001 Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, the United Nations has increased its cooperation with regional and subregional organizations in Africa, Asia and the Pacific, the Arab region, Europe and Latin America and the Caribbean to curb the illicit trade through preventing their illicit production and trafficking, their holding and transfer, weapons collection and destruction and their control in post-conflict situations.[13]

(d) Counter-terrorism

61. Paragraph 6 of Security Council resolution 1631 (2005) urged all regional and subregional organizations to enhance the effectiveness of their counter-terrorism efforts. At the global level the Counter-Terrorism Committee Executive Directorate (CTED) has been monitoring implementation of Security Council resolution 1373 (2001), facilitating delivery of technical assistance and best practices. CTED has been working on the involvement of regional organizations in this process. It has been cooperating, for instance, with OSCE, NATO, ASEAN, EU, the Council of Europe, IGAD, AU, PIF and the International Organization of la Francophonie. A number of regional conferences have been organized and the next one is planned for early 2007.

62. A special aspect of the implementation of counter-terrorism relates to the protection of human rights. The Office of the United Nations High Commissioner for Human Rights (OHCHR) convened a working group composed of United Nations and regional organizations to discuss universal and regional approaches to counter-terrorism and human rights. The working group agreed on further developing exchanges on counter-terrorism measures and human rights, and to that end, saw merit in instituting a flexible mechanism of interaction between the United Nations and regional organizations.

63. To sharpen the discussion on the protection of human rights in counter-terrorism measures, OHCHR and the OSCE Office for Democratic Institutions and Human Rights will host an expert workshop on human rights and international cooperation in the context of counter-terrorism. OHCHR is also developing a number of tools to assist our partners in the promotion and protection of human rights while countering terrorism.

[13] General Assembly resolution 56/24.

(e) Capacity-building assistance

64. Paragraph 2 of Security Council resolution 1631 (2005) urges all Member States and relevant international organizations to help strengthen the capacity of regional and subregional organizations through human, technical and financial assistance. The focus of such assistance is to be on conflict prevention, crisis management and post-conflict stabilization.

65. Most assistance is directed to Africa. In April 2004 the European Union approved the Peace Facility for Africa for a three-year period from its entry into force, with the purpose of financing costs incurred by peacekeeping forces (items such as troop transport, living expenses and development of capabilities). The first mission benefiting from the Facility is the African Union's Mission in the Sudan.

66. The 2005 World Summit Outcome has called for a 10-year capacity-building programme for the African Union.[14] The United Nations is responding to immediate requests from the AU for assistance and is following up on the series of workshops it has held in Addis Ababa. A technical mission visited the AU in June this year and a legal team visited in July to assist in the completion of memoranda of understanding and status of forces agreements. The medium-term focus is on building institutional capacity, including the civilian dimension of the standby force arrangement. The long-term focus is on improving managerial capacity and the strengthening of the standby forces themselves by 2010.

67. Cooperation between the United Nations and the AU has developed over the years with assistance provided first to the Organization of African Unity Mechanism for Conflict Prevention, Management and Resolution and to the design and implementation of the Protocol establishing the Peace and Security Council, including training. Similar partnerships have also been developed in the areas of human rights, development and humanitarian affairs.

68. Consultations at the policy level have also intensified between the United Nations, its agencies and partners and the African Union. The recent visit to the African Union Commission by the delegation of the Security Council was not only historic, but also most useful in giving fresh impetus to United Nations-AU cooperation.

69. I have decided to dispatch an interagency mission to the African Union to firm up strategic priorities within the 10-year plan. The plan should be conceived as the United Nations overall strategic framework for cooperation and coordination with the African Union. It should therefore cover all aspects of assistance, including but not limited to: political and electoral matters, governance, human rights and the rule of law, peacebuilding, recovery and food security.

70. Assistance from the international community to other regional organizations is more limited. Japan has committed substantial amounts to PIF over the next three years for economic growth, sustainable development, good governance and civilian exchanges. It also contributes on a project basis to OAS for peacebuilding missions such as electoral assistance. The United States contributes financial assistance to IGAD and ECOWAS for the development of their early warning mechanisms, while the United Kingdom, Canada and Denmark contribute to human resource development of the ECOWAS secretariat. The EU contributes under the ECOWAS-

[14] General Assembly resolution 60/1, para. 93.

EU-United Nations Office for West Africa framework of action for peace and security.

III. Challenges facing cooperation

71. As the above review has shown, the past 12 years have seen an increasing awareness of the importance, indeed the imperative, of strengthening the regional-global partnership, and an intensifying effort to realize that goal. Nonetheless, there is, in my view, much to be done before the objective is reached. Two important challenges — clarifying the roles and building the capacities — are discussed below.

A. Clarifying the roles

72. There are many instances in past crises when a number of organizations, all with well-meaning intent, have acted at cross purposes in conflict prevention, peacemaking, peacekeeping and peacebuilding. This has at times resulted in a lack of coordination to the point of confusion on the part of the international community. The Security Council itself has, on occasion, been concerned to call for effective coordination to ensure a clearer collective effort.

73. Clarification is needed in specific situations when the distribution of labour should be accurately defined but the reality speaks otherwise. However, this clarification also pertains to our regular policy-oriented meetings at the level of heads of organizations, whether convened by the Security Council or myself.

74. This applies to both membership and mandate. As noted earlier, the number of organizations attending the high-level meetings that my predecessor and I have convened has grown considerably — from 10 in 1994 to 20 in recent meetings — and the number is likely to increase further. While this development is welcome in terms of significance of interest and importance attached to the task, it increases the need for greater clarity of role.

Areas and scope of partnerships

75. The first requirement is to clarify the mechanism for strengthening the partnership — the mandate of the process itself. To date the high-level meetings have focused on the maintenance of international peace and security. The Security Council meetings, by their very nature, have done the same. There have recently been calls for the scope of the meetings to be broadened to include economic, social and cultural areas. The 2005 World Summit Outcome also called for strengthening our cooperation in these areas as well.[15]

76. Even within the scope of peace and security there is an increasing number of organizations that already have, or that are according themselves, a mandate in peace and security. It is possible that the partnership could grow to include 30 or more organizations wishing to be involved in the dual process.

[15] General Assembly resolution 60/1, para. 170 (c).

Regional versus other intergovernmental organizations

77. Another issue of importance for the future concerns the identification of regional, subregional and other intergovernmental organizations within the partnership with a view to determining a division of labour based on their comparative advantages. This is a complex issue. The concept of a region has never been clarified, neither during the framing of the Charter nor since. A draft definition of a regional agency proposed at the San Francisco Conference was rejected on the view that it might unduly restrict the need for flexibility.

78. However, taking the region as a basis for strengthening the relationship with the United Nations, the General Assembly, in the 2005 World Summit Outcome, declared:

> "We support a stronger relationship between the United Nations and regional and subregional organizations, pursuant to Chapter VIII of the Charter, and therefore resolve:
>
> "(a) To expand consultation and cooperation between the United Nations and regional and subregional organizations through formalized agreements between the respective secretariats and, as appropriate, involvement of regional organizations in the work of the Security Council ..."[16]

79. The Summit therefore took regional and subregional organizations as partners for a strengthened relationship with the United Nations. But our cooperation covers many other intergovernmental organizations as well. In the light of the views and recommendations expressed at the highest level, I believe that we might consider taking the regional-global security partnership to a new level of clarity, practicality and seriousness.

80. There was a reason Chapter VIII was drafted by the Charter's framers and that reason is as valid today as it was 61 years ago. It is to ensure that global and regional collective security is mutually complementary and that the total effort of the international community for securing the peace is optimized through the collaboration of our various international organizations.

81. In addition to regional organizations, it will be of practical sense to identify also the subregional organizations within the partnership. Although the Charter is silent on this matter, it has always been clear to me and my colleagues that the provisions of Chapter VIII imply that subregional organizations are to be included. The nature of the relationship between regional and subregional organizations itself may require greater clarity in the future. This is particularly complex, given the relationship between a regional organization and its subregional partners, on one hand, and between the United Nations and both entities, on the other hand. But we shall benefit to the extent that such clarity is achieved.

82. These reflections are not, of course, designed to exclude other organizations within the partnership which might not see themselves as falling within the scope of Chapter VIII of the Charter. Other provisions such as those of Chapters VI, VII and IX are applicable to these partners for the same roles. So none is excluded, and each has a role to play within the partnership. The question could be asked, however,

[16] General Assembly resolution 60/1, para. 170 (a).

whether the partnership would be operationally more effective if each partner knows under which Charter provisions it is functioning.

83. The need for a simple and effective identification of partners is, in fact, already recognized in the work of the United Nations. In his report submitted to the Council in response to its request, my predecessor noted that the United Nations had encouraged a "rich variety of complementary efforts" in forging a partnership between regional arrangements and agencies and the United Nations in maintaining the peace. Just as no two regions or situations were the same, so the design of cooperative work and its division of labour needed to be adapted to the realities of each case with flexibility and creativity.[17] The General Assembly Declaration, for its part, noted, inter alia, that regional arrangements or agencies could make important contributions to peace and security "in their fields of competence and in accordance with the Charter".[18]

84. For its part, the High-level Panel on Threats, Challenges and Change recommended that consultation and cooperation between the United Nations and regional organizations should be expanded and could be formalized in an agreement, covering such issues as meetings of the heads of the organizations, more frequent exchange of information and early warning, co-training of civilian and military personnel, and exchange of personnel within peace operations.[19] Commenting on the relevance of the Charter to our respective roles, the Panel said that interested regional and subregional organizations will pursue joint activities under Chapter VIII, while other intergovernmental organizations will partner with the United Nations under the other Charter provisions.

B. Building the capacity

85. Even in a future situation in which the various roles of partner organizations are clarified, the partnership will not be effective if the vast discrepancy in the capacities of the regional and other organizations around the world is allowed to continue. From the preliminary survey of the capacities of all regional and other organizations carried out by the United Nations University in 2005 and 2006, it became clear that their capacities — whether organizational, operational or resources — are vastly discrepant.[20] This needs to be rectified if a genuinely uniform regional input into the global mechanism is to be achieved. However, United Nations capacity to assist capacity-building of partner organizations should also be enhanced.

86. It is well recognized that, of all regions, Africa is in the greatest need. This was noted by the General Assembly, which in the 2005 World Summit Outcome agreed on a 10-year capacity-building programme for the African Union. It is not repudiation of that judgement to recognize that some other regional and intergovernmental organizations also are in need of assistance to build their own capacities.

[17] A/47/277-S/24111, para. 62.

[18] A/RES/49/57, General Assembly resolution 49/57, annex, para. 2.

[19] A/59/565, annex I, 86 (b).

[20] Capacity Survey, United Nations University Comparative Regional Integration Studies programme, June 2006, Bruges, Belgium.

IV. Opportunities for cooperation

87. During the Council's thematic debate in July 2004, the Prime Minister of Romania, in his capacity as Council President expressed the conviction that cooperation under Chapter VIII of the Charter of the United Nations provides enormous opportunities. I agree. The scope for optimizing the resources and stimulating the political will of the international community in serving peace and security through an effective operational partnership between the United Nations and regional and subregional organizations is vast; and the time is also ripe. That is why we agreed upon the vision of a regional-global security partnership at the fifth high-level meeting.

88. What, specifically and in practical terms, might such an opportunity mean? Overall, it means that the international community stands to benefit in the maintenance of peace and security from a balance between the intimate knowledge of a conflict situation possessed by a regional organization and the global legitimacy and authority of the Security Council. More specifically, it might mean two things. First, that the global security mechanism of the future rests on a balanced distribution of capacity and resources across all regions around the world. This will relieve certain regions and alliances of the burden they face at present, financial and human, and the risks they confront, political and military, in undertaking the principal responsibility for maintaining peace and security. Secondly, the Security Council must always retain primary responsibility for that task, but, within that context, it should be able to rely upon, and should seek, a willing and capable subsidiary role on the part of regional and other intergovernmental organizations in peace and security from every region of the world, without exception.

A. Constitutional process

89. The opportunities for partner organizations to cooperate with the United Nations in a more formalized way, as called for in the 2005 World Summit Outcome, might be facilitated by an understanding of the constitutional basis of each partner and thus the relationship between it and the United Nations. Most, not all, partner organizations were created on the basis of formal instruments, and their founding documents have accorded them, explicitly or implicitly, legal personality. Others were founded on declarations or communiqués and are not legal entities but rather regional or other arrangements. Some of these have moved or are moving towards the adoption of formal agreements establishing themselves as fully fledged international organizations with legal empowerment. Others have judged it preferable to remain as informal arrangements.

90. It is, of course, for each partner to determine for itself the nature of its own entity, what formal empowerment it possesses in law, and what role it wishes to play in partnership with the United Nations. For my part, I welcome all partner organizations in the maintenance of peace and security. It is simply worth noting, in this context, that the move to conclude a more formalized agreement with the United Nations will have implications for the legal aspect of each relationship.

B. Operational mechanism

91. The description in section II.D of the present report of the current operational cooperation between the United Nations and partner organizations shows that considerable synergy and sharing of experience and effort can be extracted from the overall partnership if the institutional will exists on all our parts. But those areas of cooperation that have been developed in an ad hoc manner remain rather haphazard in our collective contribution to a global-regional mechanism in peace and security.

92. The opportunity still exists before us to complete the historic process from a collective security of 60 years ago in which the United Nations maintained a fledgling capacity to deal with threats to the peace, on its own without partners, to today's envisioned scenario of a fully fledged and truly effective mechanism for global-regional cooperation. While this might still be an idealistic vision, it has to be our ultimate goal. As I have sought to make clear in this section and in sections II and III above, however, the challenges of a lack of coordination, clarity of roles and lack of capacity of our various organizations must be overcome for these opportunities to be realized. My recommendations below are submitted in this spirit.

V. Recommendations

93. In the present report I have sought to describe the development of the partnership that the United Nations has developed with regional and other intergovernmental organizations and to offer some analysis of the challenges faced and opportunities before us. In the light of the considerable progress, but also many remaining problems described in the present report, I submit for the consideration of the Security Council, and the General Assembly as appropriate, the recommendations set out below.

Conflict prevention (see paras. 20-27 above)

94. To strengthen our cooperation in conflict prevention:

(a) The United Nations should strengthen its capacity to develop a global-regional mechanism of conflict prevention with which comparable mechanisms at the regional and subregional levels can interact. In order to be effective and sustainable, our approach to prevention should be truly comprehensive. The contributions of development and other programmes of the United Nations and participating organizations should be gradually integrated into the work of peace and security sectors and new modalities for joint operational cooperation should actively be pursued in building national, regional and global capacities for conflict prevention;

(b) A databank on conflict prevention capacities of partner organizations and the United Nations system should be established by the United Nations as a foundation for such a mechanism;

(c) A series of workshops should be convened, jointly hosted by the United Nations and partner organizations, as already proposed, on lessons learned in conflict prevention and in building the global-regional mechanism;

(d) Current United Nations desk-to-desk consultations with the EU, the Council of Europe and OSCE could be a model for new types of dialogues on conflict prevention between other interested organizations and the United Nations;

(e) The Security Council could consider making conflict prevention a special aspect of its interaction with regional organizations in its future meetings;

(f) A dedicated research capacity should be established, to be shared by both the partner organizations and the United Nations, to advance our joint lessons-learned capacity in the field;

(g) There is also a growing need to promote greater recognition of the role of human rights in conflict prevention and early warning.

Peacemaking (see paras. 27-32 above)

95. To strengthen our cooperation in peacemaking:

(a) Regional and other relevant intergovernmental partners, including donors, should support the regional consultations now in the active planning stage by the Department of Political Affairs;

(b) Partner organizations should become active users of, and contributors to, the peacemaking databank of the Department of Political Affairs.

Peacekeeping (see paras. 33-38 and 53-59 above)

96. To strengthen our cooperation in peacekeeping:

(a) Interested regional organizations are invited to actively explore their inclusion in, and submit data on their capabilities to, the revised United Nations Standby Arrangements System;

(b) The Security Council could consider whether an identical standby arrangement system for both regional and global purposes might be desirable and feasible, based on a study submitted to the Council.

Peacebuilding (see paras. 39-41 above)

97. The Security Council could consider ways and means by which partner organizations can contribute to the Peacebuilding Commission and peacebuilding in general.

Disarmament and non-proliferation (see paras. 42-46 and 60 above)

98. To improve the effectiveness and ensure greater impact of disarmament and non-proliferation activities undertaken at regional and subregional levels, the United Nations should:

(a) Strengthen its cooperation with regional and other intergovernmental organizations to further implement the Programme of Action on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, in particular to facilitate and promote programmes of technical assistance and international cooperation, as requested;

(b) Strengthen its efforts to promote the universalization and full implementation of multilateral disarmament and non-proliferation treaties and other

politically binding instruments through the establishment of regional integrated databases;

(c) Hold a series of workshops, in collaboration with regional and other intergovernmental organizations, with a view to raising awareness and, as appropriate, facilitating the provision of assistance and cooperation to strengthen States' capacity to implement their obligations under Security Council resolutions 1540 (2004) and 1673 (2006), as well as experience-sharing and lessons learned in the areas covered by those resolutions.

Clarification of roles (see paras. 72-84 above)

99. With a view to clarifying the nature of the overall partnership, the Security Council could:

(a) Consider and elaborate on the new challenge regarding the scope of our cooperation with regional and other intergovernmental organizations;

(b) Pronounce on the desirability and implications of quantitative expansion of our partners in the global-regional mechanism;

(c) Discuss the desirability and practicability of partner organizations identifying themselves either as regional organizations acting under Chapter VIII or as other intergovernmental organizations acting under other provisions of the Charter.

Guidelines for cooperation (see paras. 6-18 above)

100. With a view to bringing together the results of the previous Security Council meetings and high-level meetings to date, the Council could recognize the various guidelines that have already been agreed upon, such as the supremacy of the Charter in governing the partnership, the primary responsibility of the Council in international peace and security, the need for consistency and impartiality by both the United Nations and all partner organizations, the need for flexibility and pragmatism, and the need for the partnership to reflect the comparative advantage of all, developing an effective division of labour in our operational collaboration. Identifying these standards would, I suggest, clarify our roles and improve our collective effectiveness in the maintenance of international peace and security.

Formalization of the partnership (see paras. 79, 85, 90 and 91 above)

101. With a view to moving towards the realization of the World Summit call, I invite partner organizations that plan to initiate a formal agreement with the United Nations, in accordance with the 2005 World Summit Outcome (A/60/1, para. 170) to express this wish to me in writing. As a practical initial step, partner organizations may wish to consider agreement on a general statement of principles, which could provide a guiding mechanism for future collaboration with and between all signatories and the United Nations.

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Prevention of armed conflict

Cooperation between the United Nations and regional and other organizations

A regional-global security partnership: challenges and opportunities

Report of the Secretary-General

Summary

In paragraph 1 of its resolution 1631 (2005) the Security Council expressed its determination to take appropriate steps to the further development of cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security. In paragraph 10 of the same resolution it invited me to submit a report on the opportunities and challenges that this cooperation faces in the future.

The resolution reflects the growth of interaction between the United Nations and partner organizations. This includes annual high-level meetings that I convene with regional and other intergovernmental organizations, along with recent meetings of the Security Council with regional organizations. The culmination of such effort has been Security Council resolution 1631 (2005), the report of the sixth high-level meeting between the United Nations and regional and other international organizations, and the 2005 World Summit Outcome.

The opportunities before us lie in the establishment of a more effective partnership operating in close cooperation with the Security Council, based on a clear division of labour that reflects the comparative advantage of each organization. As important is the development of a programme of action for capacity-building across the globe.

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The challenges to be addressed are clarification of the identity and role of each member in this partnership and a programme of action for capacity-building to ensure more equal ability among United Nations regional and other partners around the world to assist in the maintenance of peace and security. To this end, I submit a number of recommendations in the report.

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I. Introduction

1. The Security Council in its resolution 1631 (2005) invited me to report on the opportunities and challenges facing the cooperation between the United Nations and regional and subregional organizations in maintaining international peace and security. The present report is submitted in response to that request. I am submitting it also to the General Assembly as my recommendations regarding the prevention of armed conflict are a response to paragraph 37 of the annex to General Assembly resolution 57/337.

2. In its resolution, the Council also expressed its intention to hold regular meetings with regional and subregional organizations to strengthen cooperation in maintaining peace and security, ensuring that these coincide with the annual high-level meetings that I convene with heads of regional and other intergovernmental organizations. This will be achieved this year with both the seventh high-level meeting and the fourth Security Council meeting on the issue to be held in September.

3. Considerable importance has been attached to the potential for a strengthened relationship between the United Nations and partner organizations. At the fifth high-level meeting we agreed on a new vision of global security, one that draws upon the resources and legitimacy of a network of effective and mutually reinforcing multilateral mechanisms, both regional and global.

4. That vision was elaborated upon at the sixth high-level meeting. The challenge now is to articulate a common vision for a global architecture, interlocking such capacities based on comparative advantages and clear division of labour. We must intensify our dialogue on the nature of that system, always recognizing the central role of the Security Council, in accordance with Chapter VIII of the Charter.

5. Realization of this vision will not be achieved easily. It will require effort in organizational planning on all our parts. Nor will the process of strengthening the operational partnership be devoid of political implications. I hope that Member States can assist in contributing to this end. The present report is designed as a step towards that goal.

II. Development of the partnership (1994-2006)

6. It has long been recognized that the United Nations is not equipped to handle every crisis in the world on its own. It is acknowledged that a partnership between the United Nations and regional and other intergovernmental organizations should be developed if peace and security are to be maintained.

A. Early moves towards the partnership

7. Reflecting this new recognition, initiatives were taken in the early 1990s towards building such a partnership. In January 1992 the Security Council invited the Secretary-General to prepare recommendations on strengthening the capacity of the United Nations for preventive diplomacy, peacemaking and peacekeeping. This

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was to cover the contribution by regional organizations, in accordance with Chapter VIII of the Charter, in helping the work of the Council.[1]

8. In his response to that request, my predecessor noted that, while the Council would continue to have primary responsibility for maintaining peace and security, cooperation between regional organizations and the United Nations would not only lighten the burden of the Council but would also contribute to deeper participation of regional actors in international affairs.[2] That was the spirit that generated the momentum to develop a regional-global security partnership.

9. The Security Council, in January 1993, invited regional organizations to study ways of strengthening their functions in peace and security and improve coordination with the United Nations.[3] The Secretary-General signalled his intention to develop guidelines governing such cooperation. That initiative was welcomed by the General Assembly.[4] That was followed in 1994 by a Declaration of the General Assembly stating that regional arrangements or agencies in peace and security should be encouraged, and, where appropriate, supported by the Security Council.[5]

10. These early developments laid the basis for the momentum towards building the regional-global partnership for peace and security of today. That movement has taken two important forms: high-level meetings chaired by the Secretary-General and recent thematic debates held by the Security Council.

B. High-level meeting process

11. Six high-level meetings have been convened between the United Nations and regional and other intergovernmental organizations from 1994 to 2005. The doubling of attendance testifies to the importance partner organizations attach to the process. Highlights of the process have been the following:

(a) Agreement on a pragmatic and flexible approach to the partnership;

(b) Recognition of the need for impartiality by partner organizations in dealing with conflicts in their regions;

(c) Agreement on 13 modalities for cooperation on conflict prevention;

(d) Identification of eight guiding principles for cooperation in peacebuilding;

(e) Recognition that interested regional and subregional organizations would pursue joint activities under Chapter VIII of the Charter, while other intergovernmental organizations would partner with the United Nations under its other provisions, reflecting the distinction made by the report of the Secretary-General's High-level Panel on Threats, Challenges and Change[6] to that effect;

(f) Establishment of six working groups to prepare the high-level meetings more carefully at the working level.

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[1] S/23500.
[2] A/47/277-S/24111, para. 64.
[3] S/25184.
[4] General Assembly resolution 48/42, para. 63.
[5] General Assembly resolution 49/57, annex, para. 5.
[6] A/59/565.

12. Furthermore, at the sixth high-level meeting held in July 2005, a study was commissioned on the capacities of partner organizations to cooperate with the United Nations in peace and security. To accelerate progress in strengthening the partnership, participants also agreed to meet annually, to coordinate meetings with the relevant thematic debates of the Security Council, and to establish a standing committee to act as an initiator of ideas, a mobilizer of political will and sustainable direction, and a monitor of implementation of decisions made.[7]

C. Thematic meetings of the Security Council

13. In welcoming the report of the Secretary-General entitled "Supplement to an Agenda for Peace" (A/50/60-S/1995/1), the Council in 1995 reaffirmed the importance it attached to the role that regional organizations and arrangements could play in peace and security. It underlined the need for effective coordination between their efforts and those of the United Nations in accordance with Chapter VIII of the Charter.[8]

14. It was not, however, until later that the Council took up the theme of cooperation with regional organizations. Upon completion of the fourth high-level meeting in February 2001, the Council issued a statement further encouraging the United Nations and partner organizations to establish consultative processes to ensure that peace settlements mediated by them included commitments by the parties to concerted action in different areas of peacebuilding.[9]

15. Since then the Council has convened three meetings with regional and subregional partners.

16. The first meeting was held in April 2003. The Council discussed the response to new challenges to international peace and security. Despite a feeling of crisis at the time, the Council agreed that its primary responsibility and authority had to be reaffirmed and that a dynamic relationship between the regional organizations and the Council needed to be developed, based on the provisions of Chapter VIII of the Charter.[10]

17. The second meeting was held in July 2004. The Council acknowledged the important role that regional organizations could play in the prevention, resolution and management of conflicts. Coordinated efforts in stabilization processes should be based on complementarity and on responding to the comparative advantages of regional organizations.[11]

18. The third meeting was held in October 2005. The Council adopted its first resolution on cooperation with regional and subregional organizations, resolution 1631 (2005), which is the subject of review in section E of the present report.

[7] A/60/341-S/2005/567, annex 1, para. 7.
[8] S/PRST/1995/9.
[9] S/PRST/2001/5.
[10] S/PV.4739.
[11] S/PRST/2004/27.

D. Current operational cooperation

19. As a result of the guidance given by the high-level meetings and Security Council meetings, some significant operational cooperation in the area of peace and security has been developed between the United Nations and partner organizations. The sections below describe the measures currently being undertaken in conflict prevention, peacemaking, peacekeeping, peacebuilding and special areas of disarmament and non-proliferation, the protection of civilians and natural disasters.

Conflict prevention

20. While conflict prevention remains the primary responsibility of Member States, most regional and subregional organizations undertake conflict prevention measures. In Africa the African Union (AU), the Intergovernmental Authority on Development (IGAD), the Economic Community of West African States (ECOWAS) and the South African Development Community (SADC), and in Europe the Organization for Security and Cooperation in Europe (OSCE) and the European Union (EU) maintain conflict prevention centres with early warning systems. Regional efforts are context-specific and reflect different norms, priorities and resources. Often regional agencies have credibility as local actors to encourage their members to adhere to accepted international and regional norms. The international community benefits from the innovative approaches of regional organizations and from the knowledge of effective prevention strategies that are acquired in one region and that could be shared elsewhere in the world.

21. The preliminary results of the survey on the capacities of partner organizations conducted by the United Nations University Comparative Regional Integration Studies programme have shown that capacity exists in conflict prevention both in constitutional mandates and operational mechanisms in all such organizations. This holds great potential for building an effective interactive process between the United Nations and its partners.

22. The United Nations experience in conflict prevention should be shared with partner organizations. This idea is elaborated upon in my 2006 report on conflict prevention, which has been submitted to the General Assembly. The report concludes with a number of recommendations that include suggestions for addressing systemic sources of tension, strengthening global norms and institutions for peace, reducing specific risk factors and enhancing national infrastructures of peace.

23. I also recently sent an interagency team to ECOWAS and the Organization of American States (OAS), with Canadian support, with a view to exploring ways in which the United Nations could establish partnerships with those organizations. In response to paragraph 37 of the annex to General Assembly resolution 57/337 and decisions taken at the third high-level meeting in 1998, the missions built on ongoing United Nations activities and discussed joint action plans for the future. I believe that similar missions to other partner organizations might be of considerable importance in enhancing practical advances in this field.

24. Respect for human rights is also central to conflict prevention. Most conflicts have been preceded by periods of their systematic violation, abuses of human rights and gradual degradation of institutions for the promotion and protection of human rights. Building regional capacity for protection, especially resilient institutions, has

become one of the strategic goals of our partnership with subregional organizations. This partnership has been sustained through the establishment of regional offices around the world and a subregional centre for human rights and democracy in Central Africa based in Yaoundé.

25. The United Nations is willing to engage in dialogue with partner organizations on how to advance the process of building a global-regional mechanism in conflict prevention. For instance, the desk-to-desk dialogue on conflict prevention between the United Nations and the European Commission was launched in Brussels in 2003. Since then, four dialogues have taken place. The sixth United Nations-OSCE staff-level meeting was organized in May 2006. A first desk-to-desk dialogue between the United Nations and the Council of Europe took place at United Nations Headquarters in 2005. These consultations could be expanded to other regions. Other examples of potential synergy are the early warning and response systems in IGAD and ECOWAS, whose experiences could be shared with others.

26. The work of the United Nations system in conflict prevention has evolved to include an integrated, multisectoral approach, creating opportunities for interaction at the regional level. The United Nations is exploring new ways to partner with the development sectors of regional and subregional organizations. Utilizing the comparative advantages of participating partner organizations, future consultations will introduce new processes for building national capacities for mediation, conflict analysis, conflict-sensitive development, as well as dialogue and decision-making processes in fragile and post-conflict societies, supported both by partner organizations and the whole United Nations system.

Peacemaking

27. Through my good offices the United Nations has sought to promote solutions to disputes in all regions of the world, while recognizing the unique requirements of each. I wish at this juncture to acknowledge with appreciation how often regional organizations are in the lead in peacemaking. It is my expectation that the United Nations will be able to continue to support them in these endeavours in the future.

28. Special mediators remain the primary means by which the United Nations can assist Member States to resolve conflicts peacefully. In this context, the United Nations has worked closely with IGAD on Somalia and the Sudan; ECOWAS on Sierra Leone and Liberia; and the African Union on Burundi, the inter-Congolese dialogue and the convening of the International Conference on the Great Lakes Region and the conference on Darfur in the Sudan. We have also worked closely with the EU on the elaboration of the agreement on the comprehensive settlement of the Cyprus problem, and with the Association of Southeast Asian Nations on Cambodia, East Timor and Myanmar, as well as the North Atlantic Treaty Organization (NATO) and OSCE in the Balkans subregion.

29. While much progress has been achieved, many challenges remain. First is the challenge for regional organizations and the United Nations to coordinate effectively at the operational level. I have often stated that the United Nations claims no monopoly on the settlement of disputes. There may be times when it would be better for other mediators such as those from regional partners to handle a given situation.

30. The second challenge is the issue of capacity. Not all partner organizations are equally endowed. Sometimes the best-placed organizations may lack the capacity to support the peacemaking initiative effectively. Peacemaking does not only require the appointment of an effective peacemaker; often many technical experts and logistics and financial support are required to support a peacemaking initiative over a few years. I therefore welcome the efforts of Member States and regional agencies and arrangements to share resources and jointly coordinate our activities in our common purpose to resolve conflict peacefully.

31. I recommended to the General Assembly last year that the mediation capacity of the Department of Political Affairs be strengthened with a dedicated unit. The Department's core mediation support capacity, for which the General Assembly approved start-up resources, will serve as a repository of past experience and assist partner organizations to resolve conflict peacefully. This will provide greater opportunity for the United Nations to liaise with partner organizations in peacemaking. To strengthen our cooperation, the Department will soon launch a systematic region-by-region analysis of mediation experiences in order to draw practical conclusions and develop useful tools.

32. The Department is also developing a web-based peacemaking databank tool for international peacemaking professionals, as part of an effort to reinforce its capacity to provide timely advice in the resolution of international disputes and internal conflict. The site will contain peace agreements, lessons on the management of peace processes and operational guidance for future efforts of peacemaking practitioners. It will be a useful tool to our regional and other intergovernmental partners engaged in peacemaking efforts around the world.

Peacekeeping

33. Regional organizations have become important contributors to international efforts to assist States in the transition from armed conflict to sustainable peace. There has recently been dramatic growth in partners' engagement in peacekeeping as one crucial element of this wider activity, particularly in Africa and Europe.

34. I welcome this engagement. It reflects, first, the sustained global demand for peacekeeping. Second, it is testimony to the commitment of the United Nations membership to the multilateral management of peace and security and to our collective will to support societies emerging from conflict. Third, it provides an opportunity for us to improve support to those societies emerging from armed conflict through peacekeeping. The contribution regional actors bring to this global effort may include unparalleled knowledge of a particular region, expertise in a particular issue area, and personnel and material resources.

35. A representative list of regional and other partners that have collaborated politically or co-deployed with United Nations peacekeeping operations includes the AU in Burundi, Ethiopia and Eritrea, the Democratic Republic of the Congo and the Sudan; ECOWAS in Côte d'Ivoire, Sierra Leone and Liberia; the EU in Kosovo, the Democratic Republic of the Congo and the Sudan; the Commonwealth of Independent States and OSCE in Georgia; NATO in Afghanistan and Kosovo; and OAS in Haiti.

36. Operational cooperation has taken place in many diverse ways. In some cases, such as in Liberia in 2003, we have seen a transition from a regional operation — in

that case ECOWAS — to a United Nations operation. In other contexts, such as Kosovo or the Democratic Republic of the Congo, we have coordinated separate operations side by side. In Haiti, OAS has provided support within the context of a United Nations-led mission. In Darfur, Sudan, ongoing United Nations-African Union peacekeeping cooperation has taken a new dimension in the context of United Nations support for an African Union-led operation, the African Union Mission in the Sudan. The latest example of the diversity of potential models of operational cooperation between United Nations peacekeeping and regional entities is the EU Force operation to provide support to the United Nations Organization Mission in the Democratic Republic of the Congo and the Congolese people during the forthcoming election period.

37. The hallmarks of these diverse experiences are multifold. The first, the continuity of partnership: ongoing dialogue and engagement across the range of peace and security challenges enable our operational cooperation in specific contexts. The second feature is flexibility: the fact that we cooperate in diverse ways points to collective recognition that there is no one-size-fits-all approach, either to the diagnosis of peace and conflict challenges or the proposed prescriptions to address them. A third hallmark is openness: transparency before the perspectives and preferences of the peoples we seek to assist through the deployment of international peacekeeping operations. If we do not reflect their concerns and their hopes, then our collective endeavour, whatever form it takes, will be fruitless.

38. I suggest three broad goals for the coming years:

- We should promote capacity. At a time of sustained peacekeeping demand, particularly in Africa, increased regional capacity for effective action, undertaken within the framework of the Security Council's primary responsibility for peace and security, can enhance the ability of the international community to respond to conflict.
- We should target our capacity-building efforts. This includes common standards on the principles and practice of peacekeeping so that we provide consistent, effective support wherever peacekeeping operations are deployed and we can work productively together on the ground.
- Most importantly, we should reinforce a collective approach to security. The development of regional capacity should lead to a net gain in the promotion of peace and security; it does not absolve any of us of our responsibilities under the Charter to assure an effective response to conflict, wherever it occurs. At times, a regional response may be the best means to prevent or end conflict; at other times, direct involvement of the United Nations, either alone or with regional partners, may be the only way to act effectively.

Peacebuilding

39. The recent positive developments with regard to peacebuilding stem from the recognition that security, development and human rights are the pillars of the United Nations system and foundations for sustainable peace. A key development in this regard is the establishment of the Peacebuilding Commission, whose main purpose is to bring together relevant actors to marshal resources and propose integrated strategies for post-conflict peacebuilding and recovery.

40. There is an evident regional dimension to peacebuilding, and the enabling resolution[12] makes direct reference to partner organizations and regional financial institutions as key stakeholders in the peacebuilding process in countries emerging from conflict. Regional and subregional organizations are expected to play a significant role in support of the work of the Commission. In particular, regional organizations will help ensure that a coordinated and integrated approach is taken to address the peacebuilding needs of those countries under consideration.

41. Regional organizations must play a significant role in the new Peacebuilding Commission, and I hope that the Security Council might consider ways in which it could make an appropriate contribution.

Disarmament and non-proliferation

42. In various forums, the United Nations continues to recognize the importance of regional approaches to disarmament and security, affirming that global and regional approaches to disarmament complement each other and should be pursued simultaneously to promote regional and international peace and security.

43. I welcome the fact that regional and subregional cooperation to stem the flow of illicit weapons across national borders is on the rise. I also welcome the collaborative efforts of the United Nations and regional stakeholders to implement the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, build necessary capacities and provide required assistance.

44. I also consider that significant progress can be achieved in promoting the universality and full implementation of multilateral disarmament treaties related to weapons of mass destruction, as well as in facilitating efforts aimed at the establishment of nuclear-weapon-free zones. The close relationship between the United Nations and intergovernmental partner organizations offers an example of potential synergy and success.

45. I support the United Nations dialogue with interested partners on measures to combat the proliferation of nuclear, chemical and biological weapons, as well as their means of delivery. I believe that such measures are key components of the efforts to prevent the access of non-State actors to weapons of mass destruction-related materials and technology, including in the context of the implementation of Security Council resolutions 1540 (2004) and 1673 (2006). I also believe that further progress can be achieved through United Nations interaction with regional and other intergovernmental organizations to design and undertake outreach activities aimed at raising awareness and, as appropriate, facilitate the provision of assistance and cooperation to strengthen States' national capacity to implement their obligations.

46. The United Nations possesses a wealth of expertise, experience and knowledge in the field of disarmament and non-proliferation, which it is ready to share. I also believe that it is important that the synergies between regional and subregional organizations and existing United Nations regional mechanisms and infrastructure, including the three United Nations regional centres for peace and disarmament, be

[12] General Assembly resolution 60/180, paras. 7 (e), 11 and 19.

fully utilized with a view to avoiding duplication of efforts and ensuring a greater impact of disarmament and non-proliferation measures.

Protection of civilians

47. Today's conflicts have developed regional dimensions and created new dynamics that extend well beyond the border of a single country. Neighbouring States and regional organizations have already played an essential role: facilitating mediation and brokering peace agreements; supporting the demobilization of armed groups; controlling the proliferation of small arms; and addressing the needs of the displaced. Other protection issues such as human trafficking and the illegal exploitation of natural resources are not confined to State control and require regional mechanisms and commitments to be properly addressed. For example, the African Union Mission in the Sudan currently works in close coordination with the United Nations to provide protection for civilians in the Darfur region, which has led to measurable improvements in the security of women and children and displaced populations.

48. Over the next three years the United Nations will work closely with partner organizations in the protection of civilians. The objective is a consultative network with interested partner organizations to identify options for a common framework on protection of civilians in armed conflict, based on agreed core policies and legal elements.

49. This activity will support a series of workshops focusing on protection, with the aim of defining the roles of regional and subregional organizations, and identifying areas where they need specific capacity-building support. The first will be held in Dakar in early 2007, hosted by the Government of Senegal in collaboration with the Special Representative of the Chairman of the African Union Commission for the protection of civilians, and supported by the Office for the Coordination of Humanitarian Affairs Regional Office.

Natural disaster relief

50. Disasters are often regional in scale, and therefore require regional efforts to reduce risk. In order to ensure coherence and complementarity at the global level, I request that regional organizations, which have a critical role to play in humanitarian and emergency relief operations, coordinate closely with the United Nations Emergency Relief Coordinator. This is necessary to ensure that collective efforts meet internationally agreed guidelines and methodologies, benefit from lessons learned and best practices, avoid competition for resources or collision of mandates and ultimately build effective partnerships.

51. Regional networks can play an important role in the following ways: sharing and harmonizing best practices; facilitating coordination between national disaster agencies; engaging in regional training and exercises; providing additional local capacity; leveraging disaster response on national political agenda, including disaster mitigation work; advocating regional concerns at the international level; and pooling resources in order to provide immediate logistical support after a disaster.

52. In addition to these ongoing efforts with regional organizations to strengthen natural disaster preparedness and response, I plan to build on existing regional

disaster response mechanisms and to ensure that disaster response mechanisms are developed in organizations where they do not exist. This will include increasing regional capacities, the development of standby and deployment capacity and developing cooperation and coordination mechanisms.

E. Progress in realizing the goals of Security Council resolution 1631 (2005)

53. In its resolution 1631 (2005), the Council expressed its determination to take appropriate steps to the further development of cooperation between the United Nations and partner organizations in maintaining peace and security. The Council identified the following areas for specific action:

(a) Standby arrangements

54. Paragraph 1 of the resolution invited regional and subregional organizations that have the capacity for peacekeeping to place such capacities under the United Nations Standby Arrangements System (UNSAS).

55. At the global level UNSAS includes a list of capabilities that could be deployed at short notice to United Nations missions (30-90 days). UNSAS has functioned as a mechanism to submit information on national capabilities, which is regulated through a generic memorandum of understanding signed between the United Nations and Member States. To increase the effectiveness of UNSAS, particularly urgent rapid deployment requirements, the Secretariat is reviewing the system with a view to its possible adaptation.

56. At the regional level it is only in Africa that arrangements for standby peacekeeping forces are currently under way. The AU is planning to develop an African standby force by 2010, based on five subregional brigades of between 3,500 and 5,000 troops each. Whether such a regional standby arrangement might feasibly be transferable to UNSAS needs more discussion.

57. Meanwhile, some regional or other intergovernmental organizations undertake peacekeeping operations within their regions on an ad hoc contributing basis, using national contingents (CIS in Tajikistan, 1993, and Georgia, 1994; EU in the former Yugoslav Republic of Macedonia, 2003, and Bosnia and Herzegovina, 2004; and the Pacific Islands Forum (PIF) in Solomon Islands, 2003). The EU has contributed, under Security Council authorization, to a peacekeeping force beyond its region (Democratic Republic of the Congo, 2003), as has NATO (Bosnia and Herzegovina, 1995; Kosovo, 1999; and Afghanistan, 2003).

58. The Secretariat is exploring with regional organizations that have peacekeeping capacities the possibility for greater knowledge and information-sharing on respective capabilities and the potential interest of regional organizations to participate in United Nations peacekeeping missions. This work will continue with all of our relevant partners.

(b) Rapid deployment

59. The 2005 World Summit Outcome and paragraph 3 of Security Council resolution 1631 (2005) stressed the importance of enhanced rapidly deployable capacities to reinforce United Nations peacekeeping operations in crises. Member

States pointed to the potential assistance that might be provided in this area by regional organizations as well. The Special Committee on Peacekeeping Operations has also requested the Secretariat to continue to develop options for enhanced rapidly deployable capabilities, one of which is engaging regional capacities in short-term support of United Nations peacekeeping operations.

(c) Small arms and light weapons

60. Paragraph 4 of Security Council resolution 1631 (2005) stressed the potential role of regional and subregional organizations in addressing the illicit trade in small arms and light weapons. Within the global framework of the implementation of the 2001 Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, the United Nations has increased its cooperation with regional and subregional organizations in Africa, Asia and the Pacific, the Arab region, Europe and Latin America and the Caribbean to curb the illicit trade through preventing their illicit production and trafficking, their holding and transfer, weapons collection and destruction and their control in post-conflict situations.[13]

(d) Counter-terrorism

61. Paragraph 6 of Security Council resolution 1631 (2005) urged all regional and subregional organizations to enhance the effectiveness of their counter-terrorism efforts. At the global level the Counter-Terrorism Committee Executive Directorate (CTED) has been monitoring implementation of Security Council resolution 1373 (2001), facilitating delivery of technical assistance and best practices. CTED has been working on the involvement of regional organizations in this process. It has been cooperating, for instance, with OSCE, NATO, ASEAN, EU, the Council of Europe, IGAD, AU, PIF and the International Organization of la Francophonie. A number of regional conferences have been organized and the next one is planned for early 2007.

62. A special aspect of the implementation of counter-terrorism relates to the protection of human rights. The Office of the United Nations High Commissioner for Human Rights (OHCHR) convened a working group composed of United Nations and regional organizations to discuss universal and regional approaches to counter-terrorism and human rights. The working group agreed on further developing exchanges on counter-terrorism measures and human rights and, to that end, saw merit in instituting a flexible mechanism of interaction between the United Nations and regional organizations.

63. To sharpen the discussion on the protection of human rights in counter-terrorism measures, OHCHR and the OSCE Office for Democratic Institutions and Human Rights will host an expert workshop on human rights and international cooperation in the context of counter-terrorism. OHCHR is also developing a number of tools to assist our partners in the promotion and protection of human rights while countering terrorism.

[13] General Assembly resolution 56/24.

(e) Capacity-building assistance

64. Paragraph 2 of Security Council resolution 1631 (2005) urges all Member States and relevant international organizations to help strengthen the capacity of regional and subregional organizations through human, technical and financial assistance. The focus of such assistance is to be on conflict prevention, crisis management and post-conflict stabilization.

65. Most assistance is directed to Africa. In April 2004 the European Union approved the Peace Facility for Africa for a three-year period from its entry into force, with the purpose of financing costs incurred by peacekeeping forces (items such as troop transport, living expenses and development of capabilities). The first mission benefiting from the Facility is the African Union Mission in the Sudan.

66. The 2005 World Summit Outcome has called for a 10-year capacity-building programme for the African Union.[14] The United Nations is responding to immediate requests from the AU for assistance and is following up on the series of workshops it has held in Addis Ababa. A technical mission visited the AU in June this year and a legal team visited in July to assist in the completion of memoranda of understanding and status of forces agreements. The medium-term focus is on building institutional capacity, including the civilian dimension of the standby force arrangement. The long-term focus is on improving managerial capacity and the strengthening of the standby forces themselves by 2010.

67. Cooperation between the United Nations and the AU has developed over the years with assistance provided first to the Organization of African Unity Mechanism for Conflict Prevention, Management and Resolution and to the design and implementation of the Protocol establishing the Peace and Security Council, including training. Similar partnerships have also been developed in the areas of human rights, development and humanitarian affairs.

68. Consultations at the policy level have also intensified between the United Nations, its agencies and partners and the African Union. The recent visit to the African Union Commission by the delegation of the Security Council was not only historic, but also most useful in giving fresh impetus to United Nations-AU cooperation.

69. I have decided to dispatch an interagency mission to the African Union to firm up strategic priorities within the 10-year plan. The plan should be conceived as the United Nations overall strategic framework for cooperation and coordination with the African Union. It should therefore cover all aspects of assistance, including but not limited to: political and electoral matters, governance, human rights and the rule of law, peacebuilding, recovery and food security.

70. Assistance from the international community to other regional organizations is more limited. Japan has committed substantial amounts to PIF over the next three years for economic growth, sustainable development, good governance and civilian exchanges. It also contributes on a project basis to OAS for peacebuilding missions such as electoral assistance. The United States contributes financial assistance to IGAD and ECOWAS for the development of their early warning mechanisms, while the United Kingdom, Canada and Denmark contribute to human resource development of the ECOWAS secretariat. The EU contributes under the ECOWAS-

[14] General Assembly resolution 60/1, para. 93.

EU-United Nations Office for West Africa framework of action for peace and security.

III. Challenges facing cooperation

71. As the above review has shown, the past 12 years have seen an increasing awareness of the importance, indeed the imperative, of strengthening the regional-global partnership, and an intensifying effort to realize that goal. Nonetheless, there is, in my view, much to be done before the objective is reached. Two important challenges — clarifying the roles and building the capacities — are discussed below.

A. Clarifying the roles

72. There are many instances in past crises when a number of organizations, all with well-meaning intent, have acted at cross purposes in conflict prevention, peacemaking, peacekeeping and peacebuilding. This has at times resulted in a lack of coordination to the point of confusion on the part of the international community. The Security Council itself has, on occasion, been concerned to call for effective coordination to ensure a clearer collective effort.

73. Clarification is needed in specific situations when the distribution of labour should be accurately defined but the reality speaks otherwise. However, this clarification also pertains to our regular policy-oriented meetings at the level of heads of organizations, whether convened by the Security Council or myself.

74. This applies to both membership and mandate. As noted earlier, the number of organizations attending the high-level meetings that my predecessor and I have convened has grown considerably — from 10 in 1994 to 20 in recent meetings — and the number is likely to increase further. While this development is welcome in terms of significance of interest and importance attached to the task, it increases the need for greater clarity of role.

Areas and scope of partnerships

75. The first requirement is to clarify the mechanism for strengthening the partnership — the mandate of the process itself. To date the high-level meetings have focused on the maintenance of international peace and security. The Security Council meetings, by their very nature, have done the same. There have recently been calls for the scope of the meetings to be broadened to include economic, social and cultural areas. The 2005 World Summit Outcome also called for strengthening our cooperation in these areas as well.[15]

76. Even within the scope of peace and security there is an increasing number of organizations that already have, or that are according themselves, a mandate in peace and security. It is possible that the partnership could grow to include 30 or more organizations wishing to be involved in the dual process.

[15] General Assembly resolution 60/1, para. 170 (c).

Regional versus other intergovernmental organizations

77. Another issue of importance for the future concerns the identification of regional, subregional and other intergovernmental organizations within the partnership with a view to determining a division of labour based on their comparative advantages. This is a complex issue. The concept of a region has never been clarified, neither during the framing of the Charter nor since. A draft definition of a regional agency proposed at the San Francisco Conference was rejected on the view that it might unduly restrict the need for flexibility.

78. However, taking the region as a basis for strengthening the relationship with the United Nations, the General Assembly, in the 2005 World Summit Outcome, declared:

> "We support a stronger relationship between the United Nations and regional and subregional organizations, pursuant to Chapter VIII of the Charter, and therefore resolve:
>
> "(a) To expand consultation and cooperation between the United Nations and regional and subregional organizations through formalized agreements between the respective secretariats and, as appropriate, involvement of regional organizations in the work of the Security Council ...".[16]

79. The Summit therefore took regional and subregional organizations as partners for a strengthened relationship with the United Nations. But our cooperation covers many other intergovernmental organizations as well. In the light of the views and recommendations expressed at the highest level, I believe that we might consider taking the regional-global security partnership to a new level of clarity, practicality and seriousness.

80. There was a reason Chapter VIII was drafted by the Charter's framers and that reason is as valid today as it was 61 years ago. It is to ensure that global and regional collective security is mutually complementary and that the total effort of the international community for securing the peace is optimized through the collaboration of our various international organizations.

81. In addition to regional organizations, it will be of practical sense to identify also the subregional organizations within the partnership. Although the Charter is silent on this matter, it has always been clear to me and my colleagues that the provisions of Chapter VIII imply that subregional organizations are to be included. The nature of the relationship between regional and subregional organizations itself may require greater clarity in the future. This is particularly complex, given the relationship between a regional organization and its subregional partners, on one hand, and between the United Nations and both entities, on the other hand. But we shall benefit to the extent that such clarity is achieved.

82. These reflections are not, of course, designed to exclude other organizations within the partnership which might not see themselves as falling within the scope of Chapter VIII of the Charter. Other provisions such as those of Chapters VI, VII and IX are applicable to these partners for the same roles. So none is excluded, and each has a role to play within the partnership. The question could be asked, however,

[16] General Assembly resolution 60/1, para. 170 (a).

whether the partnership would be operationally more effective if each partner knows under which Charter provisions it is functioning.

83. The need for a simple and effective identification of partners is, in fact, already recognized in the work of the United Nations. In his report submitted to the Council in response to its request, my predecessor noted that the United Nations had encouraged a "rich variety of complementary efforts" in forging a partnership between regional arrangements and agencies and the United Nations in maintaining the peace. Just as no two regions or situations were the same, so the design of cooperative work and its division of labour needed to be adapted to the realities of each case with flexibility and creativity.[17] The General Assembly Declaration, for its part, noted, inter alia, that regional arrangements or agencies could make important contributions to peace and security "in their fields of competence and in accordance with the Charter".[18]

84. For its part, the High-level Panel on Threats, Challenges and Change recommended that consultation and cooperation between the United Nations and regional organizations should be expanded and could be formalized in an agreement, covering such issues as meetings of the heads of the organizations, more frequent exchange of information and early warning, co-training of civilian and military personnel, and exchange of personnel within peace operations.[19] Commenting on the relevance of the Charter to our respective roles, the Panel said that interested regional and subregional organizations will pursue joint activities under Chapter VIII, while other intergovernmental organizations will partner with the United Nations under the other Charter provisions.

B. Building the capacity

85. Even in a future situation in which the various roles of partner organizations are clarified, the partnership will not be effective if the vast discrepancy in the capacities of the regional and other organizations around the world is allowed to continue. From the preliminary survey of the capacities of all regional and other organizations carried out by the United Nations University in 2005 and 2006, it became clear that their capacities — whether organizational, operational or resources — are vastly discrepant.[20] This needs to be rectified if a genuinely uniform regional input into the global mechanism is to be achieved. However, United Nations capacity to assist capacity-building of partner organizations should also be enhanced.

86. It is well recognized that, of all regions, Africa is in the greatest need. This was noted by the General Assembly, which in the 2005 World Summit Outcome agreed on a 10-year capacity-building programme for the African Union. It is not repudiation of that judgement to recognize that some other regional and intergovernmental organizations also are in need of assistance to build their own capacities.

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[17] A/47/277-S/24111, para. 62.

[18] General Assembly resolution 49/57, annex, para. 2.

[19] A/59/565, annex I, 86 (b).

[20] Capacity Survey, United Nations University Comparative Regional Integration Studies programme, June 2006, Bruges, Belgium.

IV. Opportunities for cooperation

87. During the Council's thematic debate in July 2004, the Prime Minister of Romania, in his capacity as Council President, expressed the conviction that cooperation under Chapter VIII of the Charter of the United Nations provides enormous opportunities. I agree. The scope for optimizing the resources and stimulating the political will of the international community in serving peace and security through an effective operational partnership between the United Nations and regional and subregional organizations is vast; and the time is also ripe. That is why we agreed upon the vision of a regional-global security partnership at the fifth high-level meeting.

88. What, specifically and in practical terms, might such an opportunity mean? Overall, it means that the international community stands to benefit in the maintenance of peace and security from a balance between the intimate knowledge of a conflict situation possessed by a regional organization and the global legitimacy and authority of the Security Council. More specifically, it might mean two things. First, that the global security mechanism of the future rests on a balanced distribution of capacity and resources across all regions around the world. This will relieve certain regions and alliances of the burden they face at present, financial and human, and the risks they confront, political and military, in undertaking the principal responsibility for maintaining peace and security. Secondly, the Security Council must always retain primary responsibility for that task, but, within that context, it should be able to rely upon, and should seek, a willing and capable subsidiary role on the part of regional and other intergovernmental organizations in peace and security from every region of the world, without exception.

A. Constitutional process

89. The opportunities for partner organizations to cooperate with the United Nations in a more formalized way, as called for in the 2005 World Summit Outcome, might be facilitated by an understanding of the constitutional basis of each partner and thus the relationship between it and the United Nations. Most, not all, partner organizations were created on the basis of formal instruments, and their founding documents have accorded them, explicitly or implicitly, legal personality. Others were founded on declarations or communiqués and are not legal entities but rather regional or other arrangements. Some of these have moved or are moving towards the adoption of formal agreements establishing themselves as fully fledged international organizations with legal empowerment. Others have judged it preferable to remain as informal arrangements.

90. It is, of course, for each partner to determine for itself the nature of its own entity, what formal empowerment it possesses in law, and what role it wishes to play in partnership with the United Nations. For my part, I welcome all partner organizations in the maintenance of peace and security. It is simply worth noting, in this context, that the move to conclude a more formalized agreement with the United Nations will have implications for the legal aspect of each relationship.

B. Operational mechanism

91. The description in section II.D of the present report of the current operational cooperation between the United Nations and partner organizations shows that considerable synergy and sharing of experience and effort can be extracted from the overall partnership if the institutional will exists on all our parts. But those areas of cooperation that have been developed in an ad hoc manner remain rather haphazard in our collective contribution to a global-regional mechanism in peace and security.

92. The opportunity still exists before us to complete the historic process from a collective security of 60 years ago in which the United Nations maintained a fledgling capacity to deal with threats to the peace, on its own without partners, to today's envisioned scenario of a fully fledged and truly effective mechanism for global-regional cooperation. While this might still be an idealistic vision, it has to be our ultimate goal. As I have sought to make clear in this section and in sections II and III above, however, the challenges of a lack of coordination, clarity of roles and lack of capacity of our various organizations must be overcome for these opportunities to be realized. My recommendations below are submitted in this spirit.

V. Recommendations

93. In the present report I have sought to describe the development of the partnership that the United Nations has developed with regional and other intergovernmental organizations and to offer some analysis of the challenges faced and opportunities before us. In the light of the considerable progress, but also many remaining problems described in the present report, I submit for the consideration of the Security Council, and the General Assembly as appropriate, the recommendations set out below.

Conflict prevention (see paras. 20-26 above)

94. To strengthen our cooperation in conflict prevention:

(a) The United Nations should strengthen its capacity to develop a global-regional mechanism of conflict prevention with which comparable mechanisms at the regional and subregional levels can interact. In order to be effective and sustainable, our approach to prevention should be truly comprehensive. The contributions of development and other programmes of the United Nations and participating organizations should be gradually integrated into the work of peace and security sectors and new modalities for joint operational cooperation should actively be pursued in building national, regional and global capacities for conflict prevention;

(b) A databank on conflict prevention capacities of partner organizations and the United Nations system should be established by the United Nations as a foundation for such a mechanism;

(c) A series of workshops should be convened, jointly hosted by the United Nations and partner organizations, as already proposed, on lessons learned in conflict prevention and in building the global-regional mechanism;

(d) Current United Nations desk-to-desk consultations with the EU, the Council of Europe and OSCE could be a model for new types of dialogues on conflict prevention between other interested organizations and the United Nations;

(e) The Security Council could consider making conflict prevention a special aspect of its interaction with regional organizations in its future meetings;

(f) A dedicated research capacity should be established, to be shared by both the partner organizations and the United Nations, to advance our joint lessons-learned capacity in the field;

(g) There is also a growing need to promote greater recognition of the role of human rights in conflict prevention and early warning.

Peacemaking (see paras. 27-32 above)

95. To strengthen our cooperation in peacemaking:

(a) Regional and other relevant intergovernmental partners, including donors, should support the regional consultations now in the active planning stage by the Department of Political Affairs;

(b) Partner organizations should become active users of, and contributors to, the peacemaking databank of the Department of Political Affairs.

Peacekeeping (see paras. 33-38 and 54-59 above)

96. To strengthen our cooperation in peacekeeping:

(a) Interested regional organizations are invited to actively explore their inclusion in, and submit data on their capabilities to, the revised United Nations Standby Arrangements System;

(b) The Security Council could consider whether an identical standby arrangement system for both regional and global purposes might be desirable and feasible, based on a study submitted to the Council.

Peacebuilding (see paras. 39-41 above)

97. The Security Council could consider ways and means by which partner organizations can contribute to the Peacebuilding Commission and peacebuilding in general.

Disarmament and non-proliferation (see paras. 42-46 and 60 above)

98. To improve the effectiveness and ensure greater impact of disarmament and non-proliferation activities undertaken at regional and subregional levels, the United Nations should:

(a) Strengthen its cooperation with regional and other intergovernmental organizations to further implement the Programme of Action on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, in particular to facilitate and promote programmes of technical assistance and international cooperation, as requested;

(b) Strengthen its efforts to promote the universalization and full implementation of multilateral disarmament and non-proliferation treaties and other

politically binding instruments through the establishment of regional integrated databases;

(c) Hold a series of workshops, in collaboration with regional and other intergovernmental organizations, with a view to raising awareness and, as appropriate, facilitating the provision of assistance and cooperation to strengthen States' capacity to implement their obligations under Security Council resolutions 1540 (2004) and 1673 (2006), as well as experience-sharing and lessons learned in the areas covered by those resolutions.

Clarification of roles (see paras. 72-84 above)

99. With a view to clarifying the nature of the overall partnership, the Security Council could:

(a) Consider and elaborate on the new challenge regarding the scope of our cooperation with regional and other intergovernmental organizations;

(b) Pronounce on the desirability and implications of quantitative expansion of our partners in the global-regional mechanism;

(c) Discuss the desirability and practicability of partner organizations identifying themselves either as regional organizations acting under Chapter VIII or as other intergovernmental organizations acting under other provisions of the Charter.

Guidelines for cooperation (see paras. 6-18 above)

100. With a view to bringing together the results of the previous Security Council meetings and high-level meetings to date, the Council could recognize the various guidelines that have already been agreed upon, such as the supremacy of the Charter in governing the partnership, the primary responsibility of the Council in international peace and security, the need for consistency and impartiality by both the United Nations and all partner organizations, the need for flexibility and pragmatism, and the need for the partnership to reflect the comparative advantage of all, developing an effective division of labour in our operational collaboration. Identifying these standards would, I suggest, clarify our roles and improve our collective effectiveness in the maintenance of international peace and security.

Formalization of the partnership (see paras. 78, 84, 89 and 90 above)

101. With a view to moving towards the realization of the World Summit call, I invite partner organizations that plan to initiate a formal agreement with the United Nations, in accordance with the 2005 World Summit Outcome (A/60/1, para. 170) to express this wish to me in writing. As a practical initial step, partner organizations may wish to consider agreement on a general statement of principles, which could provide a guiding mechanism for future collaboration with and between all signatories and the United Nations.

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Administration of justice at the United Nations

Report of the Redesign Panel on the United Nations system of administration of justice

Summary

The Redesign Panel on the United Nations system of administration of justice was established by the Secretary-General in January 2006 pursuant to resolution 59/283, in which the General Assembly requested him to establish a panel of external, independent experts to review and possibly redesign the system of administration of justice at the United Nations. The present report, containing the findings and recommendations of the Redesign Panel, is submitted in fulfilment of the terms of reference stipulated for it by the Assembly.

The Redesign Panel found that the United Nations internal justice system is outmoded, dysfunctional and ineffective and that it lacks independence. The financial, reputational and other costs to the Organization of the present system are enormous, and a new, redesigned system of internal justice will be far more effective than an attempt to improve the current system.

Effective reform of the United Nations cannot happen without an efficient, independent and well-resourced internal justice system that will safeguard the rights of staff members and ensure the effective accountability of managers and staff members.

The Redesign Panel recommends a decentralized, streamlined and ultimately cost-efficient system of internal justice for the United Nations. This new system will be professional and independent and, if well-resourced, will both reduce conflicts within the Organization through more effective informal dispute resolution and ensure the expeditious disposal of cases in the formal justice system. The objective of decentralization is to ensure that staff members serving in field operations, who constitute the majority of staff, are effectively covered by the internal justice system.

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The Office of the Ombudsman should be strengthened and decentralized with a merger of the existing Offices of Ombudsmen in the Secretariat and funds and programmes. The Office should have professional mediators and should take on a stronger monitoring role regarding institutional management. The Joint Appeals Boards and the Joint Disciplinary Committees should be replaced with a new, decentralized United Nations Dispute Tribunal presided over by independent, professional judges with power to issue binding decisions. The United Nations Administrative Tribunal should become a mainly appellate court for the internal justice system. Legal representation for staff members should be professionalized and decentralized.

The Redesign Panel recommends the establishment of the proposed new justice system by a resolution of the General Assembly, further recommends the establishment of an Office of the Administration of Justice in the United Nations to manage this important aspect of the work of the Organization and to ensure the independence of the proposed new internal justice system and, finally, proposes that the new system, if approved by the General Assembly, become operational on 1 January 2008.

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I. Introduction

1. In its resolution 59/283, the General Assembly decided that the Secretary-General should establish a panel of external and independent experts to consider redesigning the system of administration of justice at the United Nations. In its resolution the General Assembly gave the Redesign Panel wide terms of reference. These terms of reference include consideration of alternative systems of organizational dispute resolution while bearing in mind the uniqueness of the United Nations system, consideration of peer review, identification of measures such as education and training to minimize the number of disputes and a review of the functioning of the United Nations Administrative Tribunal (UNAT) and its relationship with the International Labour Organization Administrative Tribunal (ILOAT). The terms of reference also include the examination of the possibility of an integrated two-layer judicial system and the legal representation of the Secretary-General.

2. The Redesign Panel began its work on 1 February 2006 and hereby submits its findings and recommendations.

3. The Redesign Panel considered the relevant resolutions of the General Assembly. It consulted with and received and reviewed information from a wide range of stakeholders in and outside the administration of justice system: United Nations staff, staff unions, managers and relevant officials not only in the Secretariat but also in the funds and programmes, at Headquarters and in the field, the President of UNAT, members of the Administrative Tribunal of the World Bank, Member States, the International Bar Association for International Governmental Organizations, the Government Accountability Project, officials of other judicial systems and external, independent experts.

4. The Redesign Panel visited the United Nations Offices at Geneva, Vienna and Nairobi, the International Criminal Tribunal for Rwanda, the Economic Commission for Latin America and the Caribbean and the United Nations Stabilization Mission in Haiti. Furthermore, the Panel consulted several duty stations, including the International Tribunal for the Former Yugoslavia and the United Nations Mission in Liberia, by videoconference.

II. Overview

5. The Redesign Panel found that the administration of justice in the United Nations is neither professional nor independent. The system of administration of justice as it currently stands is extremely slow, underresourced, inefficient and, thus, ultimately ineffective. It fails to meet many basic standards of due process established in international human rights instruments. For all these reasons, staff of the Organization have little or no confidence in the system as it currently exists.

6. An overwhelming majority of stakeholders consulted by the Redesign Panel believe that the present system, established early in the life of the Organization over half a century ago and based largely on a peer review mechanism in which participation is voluntary, has outlived its relevance. The time has come to overhaul the system rather than seek to make marginal improvements. Staff members, including staff unions and managers, voiced strong support for a professional, independent and adequately resourced system of internal justice that guarantees the

rule of law within the United Nations. The Redesign Panel stresses that the effective rule of law in the United Nations means not only the protection of the rights of staff members and management, but accountability of managers and staff members alike.

7. This outcome is of fundamental importance. First, as a result of the jurisdictional immunities enjoyed by the Organization, staff members have no external recourse to the legal systems of Member States, while the Secretary-General may waive their functional immunity from action under national legal systems in certain cases. Thus, it is essential to have an internal justice system that both provides adequate safeguards and ensures accountability of staff members. The Redesign Panel finds that the system that exists at present is fundamentally inadequate for the task of administering justice.

8. Second, establishing a professional, independent and adequately resourced internal justice system is critical because it is only such a system that can generate and sustain certainty and predictability, and thus enjoy the confidence of managers, staff members and other stakeholders. A justice system is only as good as the level of respect and confidence it commands.

9. Third, establishing a professional system of internal justice is essential if the United Nations is to avoid the double standard — which currently exists — where the standards of justice that are now generally recognized internationally and that the Organization pursues in its programmatic activities are not met within the Secretariat or the funds and programmes themselves. These international standards include the right to a competent, independent and impartial tribunal in the determination of a person's rights, the right to appeal and the right to legal representation.

10. When "in the determination of ... his rights and obligations in a suit at law"[1] an individual is deprived of the right to appeal, this severely weakens the fairness of the procedure. International standards establish the right to "an effective remedy",[2] "the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal"[3] and "the right to an appeal".[4] Hearings, too, are a clear requirement in international standards whenever there are disputed issues of fact.[5] To guarantee due process and to facilitate decisions, oral hearings should be promoted and accepted. Finally, to guarantee equality before courts and tribunals, access to lawyers and legal services is crucial.[6] In the present system, staff members

[1] International Covenant on Civil and Political Rights, article 14 (see resolution 2200 A (XXI), annex).

[2] Convention for the Protection of Human Rights and Fundamental Freedoms, article 13 (United Nations Treaty Series, vol. 213, No. 2889).

[3] American Convention on Human Rights, article 25 (United Nations Treaty Series, vol. 1144, No. 17955).

[4] African Charter on Human and Peoples' Rights, article 7 (United Nations Treaty Series, vol. 1520, No. 26363).

[5] Universal Declaration of Human Rights, article 10 (resolution 217 A (III)); International Covenant on Civil and Political Rights, article 14 (see resolution 2200 A (XXI), annex).

[6] The Basic Principles on the Role of Lawyers clearly establish that "all persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them in all stages of criminal proceedings" (para. 1) and that "Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons", para. 2 (see *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publications, Sales No. E.91.IV.2), chap. I, sect. B).

have, theoretically, the right to a lawyer of their choice, but, in practice, access is not effective and equal.

11. Neither the Joint Appeals Board (JAB) nor the Joint Disciplinary Committee (JDC), the main bodies in which the formal processes of the internal justice system are initiated, has power to take binding decisions. They can only make recommendations and thus cannot determine the rights or obligations of the persons concerned. This leaves UNAT as a one-tier justice system with no right of appeal. At the same time, JAB and JDC are composed of staff members acting in an advisory capacity to the Secretary-General and, thus, do not meet the basic standards required to guarantee their independence. That the administration of justice in the United Nations lags so far behind international human rights standards is a matter of urgent concern requiring immediate, adequate and effective remedial action.

12. Several attempts have been made over the past two decades, without success, to improve the internal justice system, and in 1995 a far-reaching overhaul was recommended by the Secretary-General.[1] Despite the best intentions of all parties involved, fundamental problems have continued to bedevil the system.

13. It is in this context that the Redesign Panel has undertaken its assignment and presents its findings and recommendations — in the hope that the internal justice system will be fundamentally redesigned to achieve expeditious, efficient and effective justice that is independent and also guarantees the rule of law as an indispensable component of the management of the United Nations. The Redesign Panel believes that reform of the internal justice system is a sine qua non for broader management reform of the Organization. A large part of the current management culture in the Organization exists because it is not underpinned by accountability. Accountability can be guaranteed only by an independent, professional and efficient internal justice system.

14. In essence, the Redesign Panel proposes the creation of a new, decentralized, independent and streamlined system by strengthening the informal system of internal justice, by providing for a strong mediation mechanism in the Office of the Ombudsman and by merging the offices of the Ombudsman of the United Nations and its funds and programmes; by establishing a new formal system of justice that replaces advisory boards with a professional and decentralized first-instance adjudicatory body that issues binding decisions that either party can appeal to UNAT; and by guaranteeing "equality of arms" thus ensuring for all staff members access to professionalized and decentralized legal representation.

III. A unified system

Scope and jurisdiction

15. The Organization's internal justice system — informal and formal — is applicable only to those who are considered staff members. UNAT jurisprudence and United Nations practice has led to a restrictive view of who is a staff member. Persons employed on special service agreements and individual contractors are not included.

[1] See A/C.5/50/2.

16. The UNAT Statute establishes that the Tribunal is competent to hear applications "of staff members of the Secretariat of the United Nations" (article 2.1). It also establishes that the Tribunal shall be open "to any other person who can show that he or she is entitled to rights under any contract or terms of appointment, including the provisions of staff regulations and rules upon which the staff member could have relied" (article 2.2 (b)).

17. Although the wording of article 2.2 (b) could lead to the conclusion that it provides coverage to persons other than staff members, the phrase "staff regulations and rules upon which the staff member could have relied" has led to a restrictive interpretation.[8]

18. Some members of the Secretariat informed the Redesign Panel that locally recruited personnel in peacekeeping missions are staff members with full rights in the internal justice system. The reality on the ground is different. Agreements between the United Nations and host States governing the status of peacekeeping missions provide for a special dispute resolution framework for locally recruited staff. It appears, however, that no such framework has ever been established. Furthermore, many locally recruited personnel in peacekeeping missions are employed for long periods as "individual contractors".

19. The General Assembly has already proposed an expansion towards other categories of personnel. In its resolution 59/283, paragraph 19, it established a clear guideline towards more comprehensive coverage.

20. All individuals appointed to perform work for the Organization by way of personal services should have full access to the informal and formal justice system of the United Nations. The Redesign Panel considers that, in addition to those currently covered by article 2 of the Statute of UNAT, the system of justice should be extended to:

(a) Any person appointed by the Secretary-General, the General Assembly or any principal organ to a remunerated post in the Organization;

(b) Any other person performing personal services under contract with the United Nations. This category includes consultants and locally recruited personnel of peacekeeping missions.

Offices away from Headquarters, peacekeeping missions and field operations

21. Two thirds of all staff of the United Nations are employed in field operations away from Headquarters. This situation requires a radical shift in emphasis. As a general rule, the system of justice in the field is very weak. The most important problem is the almost total lack of knowledge among staff members of their rights and avenues for redress.

[8] The practice of UNAT has not been to extend access to "other beneficiaries" different from staff members, former staff members or persons entitled to rely on the rights of staff members (Judgement No. 98, *Camargo*, 1965; Judgement No. 115, *Kompton*, 1968). Nevertheless, UNAT has established that it has jurisdiction regarding individuals appointed by the General Assembly as Inspectors of the Joint Inspection Unit (Judgement No. 656, *Kremer and Gourdon*, 1994; Judgement No. 1074, *Hernández Sánchez*, 2002).

22. The Redesign Panel stresses that unless a robust system of justice is established in the field at both the informal and formal levels, reform will be of limited impact.

23. There is, in practice, no legal representation available to staff members in field duty stations. Many staff do not even know of the existence of the Panel of Counsel, which is supposed to provide legal advice to staff. Even were they to be aware of the existence and role of the Panel, distance and other logistical problems would preclude its effective utilization. In regard to recourse mechanisms, there are no standing JABs and JDCs in the field.

24. There are particular problems with respect to misconduct and disciplinary cases, which constitute the bulk of cases in peacekeeping missions. In disciplinary cases, physical distance between field duty stations and Headquarters results in substandard justice. Staff members in field offices and peacekeeping missions who are the subject of disciplinary proceedings before JDCs at Headquarters are frequently interviewed by telephone. They have little or no opportunity to present their case and answer questions in person. This practice is only a few degrees removed from trials in absentia. The Organization must in all cases make budgetary provision for a staff member accused of misconduct to appear before disciplinary proceedings in person, even when he or she has the services of counsel.

25. The absence of standing JABs and JDCs in the field and the excessive reliance on the Office of Human Resources Management at Headquarters in New York are major causes of delay in the justice system. These delays have a negative impact on the management of peacekeeping operations and offices away from Headquarters.

26. Heads of offices away from Headquarters have a formal delegation of authority for recruitment and some other aspects of human resources management. But often they do not have authority to initiate disciplinary measures.

27. It is essential to give much greater delegation of authority to special representatives of the Secretary-General and heads of offices away from Headquarters in disciplinary sanctions, including dismissal, but subject to the right of the sanctioned staff member to challenge such decisions in the formal justice system. To ensure that decisions are taken fairly and transparently, a standing panel on disciplinary matters should be established in all peacekeeping operations and offices away from Headquarters as an advisory body to review and recommend disciplinary action.

28. The Redesign Panel found that there is a perception of unequal justice in the United Nations. While this perception cuts across the whole internal justice system, it is particularly acute in field duty stations. The perception is that in the handling of cases double standards are applied for staff members of different levels and different nationalities. A recent report of the Office of Internal Oversight Services[9] confirms this widespread perception that was shared with the Redesign Panel by several stakeholders. The Redesign Panel considers that local staff who work for the United Nations in field missions and offices away from Headquarters should be fully represented in all consultative committees and advisory bodies.

[9] A/60/713, para. 11.

29. There is no clarity about the functioning of the internal justice system in peacekeeping operations. This problem has several facets, the most important of which is the absence of clear frameworks governing the relationship between the Office of Internal Oversight Services and the Conduct and Discipline Unit of the missions. There has been an expansion of the role of that Unit beyond its actual mandate as a result of gaps in the internal justice system in the mission, such as the absence of an ombudsman and a representative of the Panel of Counsel.

30. It is necessary to clearly delimit the roles of the Office of Internal Oversight Services, which deals with category I complaints,[10] and other bodies that deal with the rights and obligations of staff members. Because of its asserted autonomy, no feedback is provided to the Conduct and Discipline Unit or to human resources officers in the field on matters that also fall within their authority when the Office of Internal Oversight Services takes over the investigation of complaints. This results in a significant coordination gap, which generates frustration among mission management.

31. This lack of coordination has an adverse impact on the image of the Organization, especially in cases of allegations of sexual exploitation and abuse, if the Conduct and Discipline Unit is unable to provide concrete updates to the mission's leadership or to external bodies representing the alleged victim. It also has the potential to have an adverse impact on the proposed new internal justice system. The Redesign Panel recommends that a clear framework of cooperation and delimitation of roles between the Office of Internal Oversight Services and the United Nations internal justice system be established as a matter of priority.

32. The Panel also recommends that Ombudsmen be appointed for peacekeeping missions that have a large number of civilian staff, in accordance with the proposals contained in section IV below. Post resources for this function should be an integral part of the budget of the missions.

33. The Boards of Inquiry, which investigate, among other things, incidents in peacekeeping missions involving nationals of the host country and/or significant damage to United Nations property, is an important component of the internal justice system. The composition, status and procedures of the Boards, need to be reviewed and strengthened. In most peacekeeping missions, the composition of the Boards is ad hoc. There are also difficulties in identifying qualified staff members who are prepared to devote the necessary time to such an assignment.

34. Considering the important role played by Boards of Inquiry in the administration of justice in peacekeeping missions and the complex issues they frequently have to deal with, a standing Board of Inquiry should be established in all peacekeeping missions, with full-time members in large missions. It is also recommended that special representatives of the Secretary-General give greater attention and support to the complex but essential work of the Boards to ensure consistent standards. The special representatives, in consultation with the Department of Peacekeeping Operations at Headquarters, should ensure effective follow-up and implementation of Board of Inquiry findings and recommendations.

[10] This category of investigations covers severe misconduct, abuse of authority, gross negligence, gross mismanagement, procurement fraud and sexual exploitation and abuse. Complaints outside this category in peacekeeping missions are investigated by the Special Investigation Unit of the Security Section.

35. The Redesign Panel was not able to visit any of the field operations of the funds and programmes. However, it consulted on this issue with senior management and staff representatives in New York and Geneva. The Panel is of the view that the proposed new system of internal justice will be appropriate to the needs of their field staff, although their administrative arrangements — for example, with respect to disciplinary measures — may have to differ because of their management structures.

36. Because of its special status, the Panel has not included the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) in its redesign of the internal justice system. However, there is no reason why the proposed new system should not be extended to it after appropriate consultations.

IV. The informal system

37. The current system of informal justice in the Organization comprises seven different avenues of intervention: (a) supervisors, human resources officers and executive officers; (b) staff counsellors; (c) staff representative bodies; (d) the Panel of Counsel in its pre-litigation consultative role; (e) the departmental focal points for women; (f) the Panels on Discrimination and Other Grievances; and (g) the Ombudsman.[1] The first five are not independent third parties that can reconcile disputes, but rather provide preliminary advice or counsel to staff members about their problems. Although these mechanisms play a useful advisory role, they constitute neither a proper alternative nor a complement to the formal justice system.

38. The Panels on Discrimination and Other Grievances were established in 1977 as an informal grievance procedure emphasizing mediation to address allegations of discriminatory treatment. They have not functioned as intended. They are ineffective, and few, if any, Panels now function. They should be abolished.

39. The Office of the Ombudsman holds the most promise as a viable and integrated alternative dispute-resolution institution. An expanded, integrated and geographically decentralized Office of the Ombudsman can unify the currently disparate and overlapping informal dispute-resolution processes and thus provide a valuable complement to the formal justice system.

Ombudsmen in the United Nations system

40. The Secretary-General appointed the first United Nations Ombudsman on 14 June 2002[2] and launched the Office of the Ombudsman on 25 October 2002.[3]

[1] See ST/IC/2004/4. In addition, the Ethics Office was established on 30 December 2005 to advise staff on ethics issues and to review and report on complaints of retaliation (see ST/SGB/2005/21, section 5, and ST/SGB/2005/22).

[2] Pursuant to General Assembly resolutions 55/258 and 56/253.

[3] See ST/SGB/2002/12. The United Nations Office of the Ombudsman covers Headquarters, offices away from Headquarters, including UNOG, UNOV and UNON; regional commissions; ICTR, ICTY; missions administered by the Department of Peacekeeping Operations and political and peacebuilding missions; UNCTAD; UNEP; UN-Habitat; United Nations entities such as OHCHR, UNU and UNSSC; and certain research and training institutes such as UNITAR.

That same month, an Ombudsperson was established for UNDP, the United Nations Population Fund (UNFPA) and the United Nations Office for Project Services (UNOPS). The United Nations Children's Fund (UNICEF) was recently added to this grouping, resulting in a single Ombudsperson position serving UNDP, UNFPA, UNOPS and UNICEF.[14] The Office of the United Nations High Commissioner for Refugees (UNHCR) Mediator, established in 1993, reports to the Deputy High Commissioner for Refugees and works primarily as a facilitator and objective adviser to staff on workplace matters.

41. The terms of reference of all three Ombudsmen empower them to consider conflicts relating to employment, including managerial practices, in their respective spheres of jurisdiction. They have authority to track and analyse issues and trends and to formulate recommendations for changing policies, procedures and practices in their regular reports.[15]

Strengthening the ombudsman's role

42. An ombudsman must have both proactive and preventive roles: the Organization and the funds and programmes need both an objective third party to help resolve disputes and an independent monitor to report maladministration in employment-related matters. Ombudsmen are usually classified in two types: (a) "Classic" ombudsmen, established by legislative act, with broad powers to inquire into complaints of maladministration by governmental agencies and to recommend appropriate remedies, and (b) "Organizational" ombudsmen, working informally, within the organizations that created them, to resolve conflicts through conciliation or mediation, while also acting as fact-finders and agents for organizational change.

43. Both of these models are in evidence in the current terms of reference of the United Nations Ombudsman, the UNDP/UNFPA/UNICEF/UNOPS Ombudsperson and the UNHCR Mediator. Their terms of reference, which are drafted in broad language, include the identification and resolution of disputes through mediation and/or facilitation.[16] All three Offices are relatively new, have operated under resource constraints and are still implementing the full range of their terms of reference, especially as regards their monitoring function and formal mediation.

44. It is highly desirable to have an informal justice system that combines in an office of the ombudsman both the monitoring of maladministration and the mediation of disputes. Bringing dispute-resolution activities within an office of the ombudsman — by means of formal mediation by the ombudsmen and by full-time mediators — will provide the office with a centralized source of data from which to

[14] Office of the UNDP/UNFPA/UNOPS Ombudsperson, "Report on the work of the Office for the period 1 August 2004 to 31 December 2005", p. 7. Other organs within the United Nations family have also established ombudsman offices (or similar offices under other names), including those of the WHO/PAHO Ombudsperson, the UNESCO Mediator, the WIPO Mediator, the ILO Ombudsperson, the WFP Ombudsman, the ICAO Ombudsman, the ITU Mediator, the IOM Ombudsperson, the IMF Ombudsperson and the World Bank Ombudsman.

[15] See ST/SGB/2002/12 and EC 1995/SC.2/CRP.23.

[16] The report on the work of the Office of the UNDP/UNFPA/UNOPS Ombudsperson for the period 1 August 2004 to 31 December 2005 is a valuable example of the Ombudsperson's proactive role.

identify systemic problems and trends, such as ambiguities in the United Nations Staff Regulations and Rules affecting contractual modalities and entitlements. Such data — which can be collated while respecting the obligation of confidentiality — would be extremely difficult to gather if informal dispute resolution were to remain scattered, as it is at present.

45. Moreover, combining monitoring and dispute-resolution functions will alleviate the current confusion among staff about where to turn for assistance with their problems. By replacing the current maze of overlapping processes with a "one-stop shopping" approach to informal dispute resolution, it will parallel the formal justice system. The newly established Ethics Office, an essential component of the reform of the Organization, is nevertheless one example of this situation, as both it and the current Office of the Ombudsman receive complaints regarding retaliation against whistle-blowers. The role of the Ethics Office should be clearly defined in order to avoid unnecessary confusion and duplication.

46. Like the formal justice system, the informal system — centred on the Office of the Ombudsman — must be a single and integrated whole that merges the existing United Nations Ombudsman, the UNDP/UNFPA/UNICEF/UNOPS Ombudsperson and the UNHCR Mediator. It should cover all aspects of workplace administration and serve all staff. Unifying these Offices and sharing resources and facilities will both strengthen the informal system of justice and harmonize practices and policies within it.

47. The administration of the new Office should have its centre at Headquarters, with its operations largely decentralized to provide easier access and quicker response. This will bring important benefits to the justice system as a whole.

48. First, an integrated Office of the Ombudsman will offer coherence and consistency throughout the Organization by directing the problems of all staff members regarding contract disputes, entitlements, standards of conduct (including abuse of authority and retaliation), non-renewal or termination issues, questions of career advancement and the like to a single office. Second, consolidating individual informal dispute resolution within the Office of the Ombudsman will give the Ombudsmen a privileged position from which to monitor systemic problems and to recommend solutions. Third, the decentralization of the Office is based on recognition that the current Ombudsman and Ombudsperson have in recent years seen a marked increase (to about 75 per cent) in the proportion of cases originating away from Headquarters. For field staff in particular, decentralization is the only viable means of providing effective and timely informal dispute resolution. Finally, closing gaps of access and avoiding duplication of services will benefit all staff and will save human and financial resources, especially at the regional level.[1]

49. The proposed Office of the Ombudsman should have two components: the Ombudsmen and the Mediation Division. The Ombudsmen will mediate high-profile disputes and also monitor and report on problems of maladministration. The

[1] The three existing Offices resolved up to 1,300 cases in 2005. The Offices currently consist of 16 staff members, the majority of them being at the Professional and higher levels (P and D). The 2006-2007 budget for the Office of the United Nations Ombudsman will reserve three more positions for Ombudsmen in Geneva, Vienna and Nairobi (all D-1). In addition, there are four consultant Ombudspersons who are paid up to $30,000 each.

Mediation Division will mediate disputes upon referral by the Ombudsmen or from judges in the formal system of justice.

50. The oversight of the entire Office should be the responsibility of the United Nations Ombudsman, at the Assistant Secretary-General level, whose roles will be monitoring and reporting maladministration with regard to employment-related conflicts, practices and policies and mediating disputes that raise broad systemic problems or that would benefit from the participation of a high-level mediator.

51. An Ombudsman for the funds and programmes, at the D-2 level, will perform the same functions as the United Nations Ombudsman, but for the funds and programmes, including UNHCR.

52. Five regional Ombudsmen, each at the D-1 level, will head regional offices in Africa (Nairobi), Europe (Geneva), the Middle East (Amman/Beirut), Asia and the Pacific (Bangkok) and Latin America and the Caribbean (Santiago/Panama City). Two Deputy Regional Ombudsmen, each at the P-5 level, will be based in Africa (Addis Ababa/Johannesburg) and Europe (Vienna) to assist the African and European regional Ombudsmen. The regional and deputy regional Ombudsman Offices will each have jurisdiction over all matters arising in their region and will perform both monitoring functions and mediation. They should be selected and appointed jointly by the United Nations Ombudsman and the funds and programmes Ombudsman. Regional Ombudsmen should each be provided with a legal officer or case officer at the P-2/P-3 level to provide necessary assistance for the activities of the new decentralized Office.

53. The Redesign Panel has concluded that the effective decentralization of the internal justice system cannot be achieved without recognizing the importance of peacekeeping operations in the work of the Organization. Thus, the Panel recommends that Ombudsmen be appointed within the Office of the Ombudsman to serve peacekeeping missions with large numbers of civilian staff under the budgets of the relevant missions. These Ombudsmen should be selected and appointed by the United Nations Ombudsman and report directly to her or him.

54. A secretariat at Headquarters with a Director at the D-1 level, as is currently the case, will administer the work of the Ombudsmen. The Director will manage the business of all the Offices by for example, ensuring the automatic follow-up of all cases, designing and maintaining computer links between the Headquarters and field offices and protecting the strict confidentiality of all Office business.

55. A Mediation Division — located at Headquarters and under the authority of the United Nations Ombudsman — will provide formal mediation services for the Organization and the funds and programmes. The Division will comprise a coordinating mediator at the D-1 level and two full-time senior mediators at the P-5 level. In addition, the coordinating mediator will maintain a list of international professional mediators who can be called upon if reasons of expedience, language or cultural sensitivity so require.[18] As the Ombudsmen will not be able to undertake mediation in all cases, the Mediation Division will complement them and will also provide mediation services for the formal justice system.

[18] The list will represent a pool of on-call qualified and experienced mediators, who should be as linguistically, culturally and geographically representative as possible. Members will be paid per mandate according to a scale set by the coordinator.

56. The coordinating mediator will receive and administer the voluntary joint requests for mediation by which both parties consent to have a mediator act as an objective third party to help them reach a mutually acceptable settlement. Parties may request mediation before litigation or disputes can be referred to the Mediation Division from the formal system.

57. In any mediation — whether conducted by an Ombudsman or by a mediator from the Mediation Division — any settlement reached should be signed by the parties and followed, if necessary, by an administrative decision giving effect to the agreement. Anything said or written during the mediation process is wholly confidential and should be inadmissible in subsequent litigation.

58. The Secretary-General will appoint the United Nations Ombudsman; the Ombudsman for funds and programmes will be appointed by the executive heads of those bodies. It is proposed that there be a selection committee composed of a staff representative, a management representative and two distinguished outside ombudsmen one appointed by the staff and one by the management, and chaired by a third distinguished outside ombudsman appointed jointly by the Secretary-General and the executive heads of the funds and programmes. The selection committee should submit a list of not fewer than three names for each position, taking into consideration the nature and the characteristics of the Organization, on the one hand, and the funds and programmes, on the other.

59. A term of five years is appropriate for both the United Nations and the funds and programmes Ombudsmen. To avoid any appearance of political or administrative bias, no reappointment should be possible. All other Ombudsmen should be appointed to renewable two-year terms. All the Ombudsmen and mediators should be removable by the appointing authority only for incapacity or proven misconduct.

60. The funds and programmes Ombudsman will prepare a report on funds and programmes matters, which the United Nations Ombudsman will incorporate into the Office's annual general report. The latter report will include an overview of all activities of the Office and identify and recommend solutions to any systemic problems. The annual general report will be presented to the General Assembly by the United Nations Ombudsman and to the joint executive boards of the funds and programmes by the funds and programmes Ombudsman.

61. The independence of the Office requires budgetary autonomy. Its effectiveness and accessibility depend on sufficient resources for adequate staff, capacity for growth and necessary travel to field duty stations.[9] The regional offices are essential to the mission of the Office and should be adequately funded, directly from Headquarters, to ensure their independence from local management control.

[9] Resource constraints have compromised access in the current system. In Nairobi, the Ombudsman post serving the United Nations Office at Nairobi and the United Nations Environment Programme has been vacant for three years; in Vienna, a pilot project was initially staffed with a part-time retired staff member but the position has been vacant since April 2005.

V. The formal system

62. The present formal justice system is based on the administrative law model, with the Secretary-General making final decisions on appeal following peer review. Those decisions may be challenged in UNAT. Subject to one important qualification, the system closely resembles those of the specialized agencies of the United Nations that are subject to the jurisdiction of ILOAT. That qualification is that the powers of the UNAT are more limited than those of ILOAT.

63. There are several advisory boards and committees within the formal system, of which the most significant are the JDCs for disciplinary matters and JABs concerned with appeals against administrative decisions affecting individual staff members.[20] There are JDCs and JABs in New York, Geneva, Vienna and Nairobi. These bodies deal with matters concerning staff of the Secretariat and the various funds and programmes, while UNICEF and UNDP each has its own JDC. These bodies are advisory in nature and are composed of staff members appointed by the Secretary-General and elected by the staff, with the Chairperson appointed by the Secretary-General. Members are volunteers who generally lack legal qualifications. They must attend to their normal duties in addition to their service on a JAB or JDC.

64. In recent years, there have been difficulties in recruiting volunteers and, with the increase in fixed-term contracts relative to permanent contracts, there is a growing concern on the part of staff about the independence of both bodies. Moreover, problems with volunteers' availability generate delays.

65. Disciplinary proceedings are protracted, and, frequently, more than a year will pass before disciplinary measures can be implemented. Proceedings before a JDC usually take six to nine months, and its recommendations must then be considered at Headquarters in New York before any disciplinary measures can be taken.

66. Because JDCs and JABs have a common secretariat and priority is quite properly given to disciplinary matters, there are egregious delays in JAB proceedings. Before initiating an appeal, a staff member must seek a review of the decision, usually at Headquarters in New York, a process which takes 60 days.

67. After an appeal has been filed, management has two months in which to file a reply. However, JABs frequently grant an extension for the filing of management's reply.[21] Usually, there are two further pleadings — one from the staff member and a final pleading from the management. Time limits for these are frequently extended. Moreover, as a result of some lack of certainty in JAB rules, the staff member and management are often permitted to file additional comments before a JAB panel is constituted to hear the appeal. There are often further delays between the filing of

[20] There are also Classification Appeals and Review Committees, the Claims Board, Medical Boards relating to sick leave, the Advisory Board on Compensation Claims and the Central Examination Board. Decisions with respect to recommendations made by the Claims Board, the Medical Boards and the Central Examination Board now go to JAB, while those made with respect to the recommendations of the other two go directly to UNAT. Additionally, there are rebuttal panels, which consider performance appraisal reports. There is no right of appeal with respect to an appraisal rating, although a staff member may appeal a subsequent administrative decision based on a rating made after proceedings before a rebuttal panel.

[21] This situation may improve with the implementation of paragraph 32 of General Assembly resolution 59/283.

final documents and the decision of the Secretary-General. The entire process generally takes at least three years from beginning to end.

68. The JDC and JAB reports are of uneven quality with respect to both their analysis of the facts and their understanding of the Staff Rules. This is to be expected given that their membership is ad hoc and that members generally lack legal qualifications. Thus, unanimous recommendations in favour of staff members are not always accepted. However, this is generally perceived by staff members as an indication of management's unwillingness to be bound by adverse recommendations and as evidence that the system operates to their disadvantage.

69. Decisions rejecting the recommendations of JDCs and JABs may be the subject of an application to UNAT. Proceedings before UNAT usually take two years.[22] There is a lack of consistency in some of its decisions and a poorly developed jurisprudence. This has an adverse impact on the workings of JABs and JDCs and impedes proper decision-making by management.

70. Although the administrative law model provides a means of redress for breach of terms of appointment or conditions of service, it has a significant defect: there is no simple procedure by which to obtain a remedy unless and until there is a formal decision.[23]

71. A number of the difficulties within the formal justice system stem from the Statute and the jurisprudence of UNAT. By article 10.1 of its Statute, UNAT may order specific performance. However, it is required at the same time to fix compensation (normally limited to two years' net base salary), which the Secretary-General may decide to pay as an alternative if that is considered to be in the interests of the Organization. The power of the Secretary-General to choose between specific performance and the payment of limited compensation can, and sometimes does, result in inadequate compensation, particularly in cases of wrongful termination or non-renewal of contract. A system that cannot guarantee adequate compensation or other appropriate remedy is fundamentally flawed. More significantly, a system that does not have authority to finally determine rights and appropriate remedies is inconsistent with the rule of law.

72. The decisions of UNAT are not always consistent, and its jurisprudence is not well developed. In particular, it does not have a coherent jurisprudence as to the duties of an international organization to its staff. Thus, there is a widespread view, which is largely correct, that the formal justice system affords little, if any, protection of individual rights, such as the right to a safe and secure workplace or the right to be treated fairly and without discrimination.

[22] This is, partly because of lengthy and, often, repetitive pleadings, partly because of the extension of time limits (often for six months for management's reply) and partly because of UNAT work patterns and methods. Much of the Tribunal's time is taken up with applications for revision of judgements, and its efficiency would be improved if all judges prepared their draft judgements before attending the sessions in New York and Geneva.

[23] To overcome this problem, the rules of some specialized agencies and the ILOAT Statute have provisions deeming a negative decision to have been taken if notification of a decision has not been made within a specified time. There is no equivalent provision within the UNAT Statute. However, UNAT has recently held that it has jurisdiction with respect to "implied" decisions. Judgement No. 1157, Andronov.

73. In summary, the structure of the formal justice system is both fragmented and overcentralized. It is slow, expensive and inefficient. It does not provide proper or adequate remedies and fails to guarantee individual rights. It promotes neither managerial efficiency nor accountability. It generally lacks transparency and fails to satisfy minimum requirements of the rule of law. It enjoys neither the confidence nor the respect of staff, management or Member States.

74. Given the defects and limitations of the present system, the Panel is of the view that a fundamentally different system should now be adopted. Moreover, the Panel is satisfied that the present system of peer review cannot be sustained.[24] Thus, the Panel recommends the establishment of a two-tiered system comprising a first-instance decentralized tribunal, the United Nations Dispute Tribunal, to be created by resolution of the General Assembly and composed of professional judges with power to make binding decisions. The jurisdiction of UNAT should be expanded to hear appeals from the Dispute Tribunal on the part of the Organization, the funds and programmes and staff alike. To emphasize the predominantly appellate nature of its jurisdiction, UNAT should be renamed the United Nations Appeals Tribunal.

75. To simplify access to justice, the Dispute Tribunal should replace existing advisory bodies, including the JDCs and JABs, but not including the rebuttal panels and Classification Appeals and Review Committees.[25] However, it is proposed that adverse decisions following proceedings before the latter two bodies may be the subject of proceedings before the Dispute Tribunal.

76. To ensure that all staff, particularly those in the field, have access to justice, the Dispute Tribunal should have registries in New York, Geneva, Nairobi, Santiago and Bangkok. New York, Geneva and Nairobi should each have a full-time judge, while Santiago and Bangkok should each have a half-time judge. There should be regular monthly sittings at each of the three headquarters registries and every two months in Santiago and Bangkok. Sittings should be arranged so that for at least one week of every two months, two judges will be available to hear matters at each of the registries and, if required, at other places within the region.

77. The United Nations Dispute Tribunal should have jurisdiction in four areas:[26]

(a) Complaints alleging non-compliance with terms of appointment, conditions of employment or the duties of an international organization to its staff, regardless of the type of contract under which they are employed and whether or not there has been a formal decision;

(b) Disciplinary matters;

[24] The difficulty in finding volunteers is now acute. In the recent past, for example, it was impossible to convene a JAB in New York to hear two applications for suspension of action before decisions bringing service to an end took effect. The problems are likely to worsen as the United Nations moves towards more fixed-term contracts, both in terms of the number of appeals and applications for suspension of action and in terms of finding sufficient volunteers who feel able to act, and who will be perceived as acting, independently.

[25] These bodies are concerned with performance appraisal and classification review, both of which require expert knowledge.

[26] A more precise statement of the intended jurisdiction of the Dispute Tribunal is set out in annex I.

(c) Applications by the Organization or funds and programmes to enforce the relevant staff and financial rules relating to accountability against staff members;[27]

(d) Actions by a staff association on behalf of its members to enforce the Staff Rules and Regulations and related administrative instructions or on behalf of a particular class of its members affected by a particular administrative decision.

78. It is necessary to elaborate on these heads of jurisdiction. The first is intended to overcome problems that arise in the present system if a formal decision has not been made. It is also intended that it should cover matters that in the past were dealt with by the Panels on Discrimination and Other Grievances. It will also allow for complaints with respect to conduct that is inconsistent with the duties of the Organization to its staff or that infringes their individual rights.

79. As regards the second head of jurisdiction, with the abolition of the JDC's new procedures will be required for disciplinary matters. The existing rules and administrative procedures result in unnecessary delays. The current practice is to refer the question of whether or not to take disciplinary action to Headquarters in New York, no matter where the staff member is stationed. Paradoxically, at this stage a decision may be taken to summarily dismiss a staff member, leaving it to him or her to appeal to a JDC, while a decision to impose some lesser measure can be taken only by management after seeking the advice of a JDC. There is reason to believe that, because of this, staff members are sometimes summarily dismissed when less severe measures would be more appropriate, and on other occasions no action is taken at all.

80. The Panel is of the view that disciplinary procedures should be brought into line with those in most national jurisdictions and most other international organizations. Thus, it is proposed that, after consultation with the relevant standing panel on disciplinary matters, referred to in paragraph 27 above, the executive heads of offices away from Headquarters and peacekeeping missions should have power to impose whatever disciplinary measure is considered appropriate. Staff members should have an immediate right to challenge the decision before the United Nations Dispute Tribunal, where, as in cases previously referred to a JDC, the onus should be on the Organization to establish misconduct.

81. With the abolition of the JDCs, it will be necessary to establish new procedures to enforce the rules relating to financial accountability. Hence, the third head of jurisdiction.

82. Because staff members are sometimes reluctant to enter the formal justice system for fear of reprisals, it is considered necessary to give staff associations an independent right to bring action to enforce the Staff Rules and Regulations.[28] This is consistent with the jurisprudence of ILOAT[29] and will help promote accountability. The right of a staff association to bring a class or representative action will promote efficiency in the judicial process.

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[27] The present rules are financial rule 101.2 and staff rules 112.3, 212.2 and 312.2.

[28] As the various staff associations owe their existence to the Organization or its funds and programmes, it is irrelevant that they lack legal personality according to national law.

[29] ILOAT jurisprudence allows that a member of the committee of a staff association may bring action to enforce the Staff Rules if there is no one else who can do so. See ILOAT Judgement No. 2563 (*Wunsch and Others v. European Patent Office*).

83. The United Nations Dispute Tribunal should have power to grant final and binding relief by way of:

(a) Specific performance, injunction and declaratory decree, including the order that an appointment be set aside;

(b) Compensation and damages, including, in exceptional circumstances, exemplary or punitive damages;

(c) Orders for the payment of interest when justified;

(d) Orders for the payment of out-of-pocket expenses and legal costs, provided that an order should be made for the payment of a staff member's legal costs only if, in the opinion of the judge, it was appropriate to have private representation.

84. The Dispute Tribunal should also have power to make interim orders, including orders for the suspension of action in any case where there is a good prima facie case and the award of compensation or damages would be inadequate and power to summarily dismiss matters that are clearly irreceivable or are frivolous or vexatious. It should also have power to make its own rules, including with respect to interveners and *amici curiae* (friends of the court). Importantly, it should be given express power to refer the evidence in any matter to the Secretary-General for consideration of possible disciplinary action, action to enforce financial accountability or the lifting of immunity.

85. It is necessary to address the power to order that an appointment be set aside. The current practice and jurisprudence is that an appointment, once made, cannot be set aside no matter how flawed the appointment process. This is contrary to the view taken by ILOAT and, thus, contrary to the law that applies to specialized agencies subject to its jurisdiction. Current United Nations practice and jurisprudence not only results in persons who have been wrongfully appointed being retained in their posts, but may also result in an award of compensation to candidates whose appointments have been set aside.[10]

86. To bring the United Nations system into line with the practice of most other international organizations and to permit mediated settlements, it is recommended that the regulations be amended to allow a post to be declared vacant by the Secretary-General if the appointment process was flawed.[11] This will ensure respect for the rule of law. Further, there should be many fewer cases in which damages are awarded to candidates whose appointments have been set aside, and damages, if awarded, should be much less.

87. With the streamlining of the formal system of justice, it is recommended that the present system of administrative review before action be abolished. Generally, the review function falls to the Administrative Law Unit within the Office of Human Resources Management at Headquarters in New York, regardless of where the staff member is posted. Few staff members receive a reasoned response, the vast majority

[10] UNAT recently awarded three years net base salary to a person whose rights were infringed by a flawed appointment: Judgement No. 936, *Salama*. In an earlier case, two staff members were each awarded 18 months net base salary: Judgement No. 914, *Gordon and Pelanne*.

[11] For example, if the appointee lacked the stipulated qualifications or there was some other irregularity in the process.

receiving a letter at the end of the review period (60 days) telling them that they may file a statement of appeal with JAB.

88. Under the proposed system, proceedings should be commenced by a staff member by filing a complaint against the Organization or fund or programme by which he or she is employed. Because the Dispute Tribunal will have local registries with facilities for electronic filing, actions should be commenced not later than two months after the cause of action arose. There should be an exception in cases where the parties have agreed to extend the period so as to facilitate mediation, and otherwise only if an extension is granted. An order for extension should be granted only within six months of the act or decision in question and only if it is established that proceedings could not reasonably have been commenced at an earlier date.

89. The complaint should identify the decision or conduct that is challenged, the person responsible for it, the date or dates on which it occurred and, in the case of injury or loss, the date on which it was first suffered. Additionally, it should state the grounds of complaint and the relief claimed. The complaint should be forwarded by the Dispute Tribunal to the person whose decision or conduct is at issue and also to the appropriate designated legal representative of the Organization or fund or programme. The person whose decision or conduct is in question should personally file an answer to the complaint within 30 days. There should not be more than one further pleading by each side after the answer is filed, and unless mediation is sought, the time for filing those pleadings should not exceed 21 days.

90. Mediation is an important part of the proposed new formal system. Either side can seek mediation at any time before a matter proceeds to final judgement. Ordinarily, mediation is voluntary, but, under the proposed new system, a judge may order that the parties attempt mediation if that is appropriate to the circumstances of the case. Mediation may proceed within the Mediation Division established in the Office of the Ombudsman or, if a judge so orders, may be performed by a judge[32] or, if the judge considers it appropriate, by a registrar. To avoid delay, strict time limits should be fixed for mediation.

91. A registrar should be located at each registry, with responsibility for the case management of all matters filed in that registry. This includes the transmission of complaints to the person whose acts or decisions are in question and to the designated legal representative; ensuring that time limits and procedural requirements are complied with; subject to review by a judge, granting extensions in cases proceeding to mediation or otherwise in exceptional circumstances; and after consultation with a judge, fixing the times and dates for hearings and issuing orders for the production of documents or the attendance of witnesses. To ensure that the system works effectively, registrars should also be responsible for identifying matters to be referred to a judge for possible summary dismissal or for directions as to the further conduct of the case, including for fast-tracking or priority hearing.

92. The proposed United Nations Dispute Tribunal must have power to hold oral hearings and should be required to do so in any case involving disputed issues of fact. The hearings should be public, including by videoconference if necessary.

[32] If judicial mediation does not result in a settlement, the judge who acted as mediator will not hear the case unless the parties agree. If they do not agree, it will be necessary for the matter to be referred to another judge. However, if sittings are scheduled so that two judges are available for one week of every two months this should not occasion any delay.

93. Under the proposed new system, matters should ordinarily be determined by a judge sitting alone. However, the Panel considers it advisable to retain some elements of peer review, with assessors sitting with the judge in disciplinary cases and, if the judge so decides, in exceptional cases involving serious allegations. Accordingly, it is proposed that panels of assessors be established for each region and that they be appointed by the management and elected by the staff. The judge should also sit with medical assessors, appointed by the management and the staff member, in cases involving medical issues. Assessors will have the right to question witnesses if so permitted by the judge. They will provide the judge with advice, but the final decision will be made by the judge alone.

94. The Dispute Tribunal should give reasoned decisions in every case that proceeds to judgement. All judgements should be delivered in public, either orally or in writing, and should be published on the Intranet and the Internet in English and in French. If the matter was decided in another official language of the Organization, the judgement should also be published in that language. The judge should be able to suppress the names of parties or witnesses if that is considered to be in the interests of justice.

95. It is proposed that either side be able to appeal decisions of the Dispute Tribunal to UNAT. The appeal process should be much simpler than that currently involved in applications to UNAT. A notice of appeal stating the grounds of appeal and the relief claimed should be filed within 45 days of the decision in the registry at which the matter was heard. The other side should file an answer and/or a notice of cross-appeal within 30 days. If a notice of cross-appeal is filed, the appellant will need to file an answering document. Thereafter, the parties should each file written submissions at times fixed by the registrar, who will be responsible for preparing an appeal file, in conference with the parties or their legal representatives, to be transmitted electronically to UNAT.

96. The Redesign Panel is required by resolution 59/283 to consider the harmonization of the Statutes of UNAT and ILOAT. Under the Panel's proposals, UNAT will become primarily an appeal court rather than an administrative tribunal. Thus, complete harmonization is not possible. However, the Panel is of the view that there should be harmonization of jurisprudence, powers and status so as to ensure, so far as is practicable, equal treatment of the staff members of specialized agencies and those of the United Nations itself. To this end, rule changes have been proposed with respect to appointments and disciplinary proceedings. Further, the proposed jurisdiction of the Dispute Tribunal has been expressed in terms that reflect ILOAT jurisprudence. As UNAT will have power to make orders that should have been made by the Dispute Tribunal, there will be no limitation on its appellate powers.

97. Even if the Redesign Panel's proposals are implemented, UNAT will retain administrative jurisdiction in relation to the United Nations Joint Staff Pension Fund and other bodies that are subject to its jurisdiction.[33] To ensure consistency with its appellate powers, its independence and compliance with the rule of law, it is recommended that, after consultation with those subject to its jurisdiction, the definition of staff in article 2 of the UNAT Statute be expanded, that article 10 be

[33] The International Court of Justice, the International Tribunal for the Law of the Sea, the International Seabed Authority, the International Civil Aviation Authority, the International Maritime Organization and UNRWA.

amended to enable it to grant specific performance or other relief as it deems appropriate and that it otherwise be brought into line with the Statute of ILOAT.

98. To provide for the proposed new appellate jurisdiction of UNAT, changes to articles 2, 7 and 10 of its Statute are necessary. To enable consistency in decision-making, there should also be provision for the President or any two members of UNAT to refer important cases to the whole Tribunal.[34]

99. Just as important as the harmonization of UNAT and ILOAT jurisprudence is the harmonization of status and work practices. The work practices of UNAT could be made more efficient.[35] Judges of UNAT should be paid a proper honorarium that is not less than that paid to their ILOAT counterparts.[36]

VI. Legal representation

Panel of Counsel

100. The Panel of Counsel, which was formally established in 1984 and which has the responsibility to provide legal assistance and representation to United Nations staff members in proceedings within the internal justice system, is extremely underresourced and is not professionalized. Yet as the first port of call in the formal justice system for staff members, and as a body that also plays an active role in the informal system by advising staff members on whether and how to seek informal resolution of disputes, its responsibilities are onerous. As a result, the current structure of and resources available to the Panel are fundamentally inconsistent with the goal of an efficient and effective administration of justice in the United Nations. The Panel has functioned to the extent it has because of the dedication and hard work of its small staff and volunteers.

101. The Panel of Counsel received 266 new cases in 2005, 48.5 per cent of which came from offices away from Headquarters. The number of cases in the formal system increased by 45 per cent in 2005, and the number in the informal system decreased by 4 per cent. In the same period, there was a 50.24 per cent increase in the number of cases taken to JAB and an increase of 172 per cent in the number of cases litigated at UNAT.

102. As of February 2006, the Panel of Counsel had only two full-time staff members in New York and four part-time counsel. The only post available for it in the regular budget is one General Service post. The full-time post of the

[34] Suggested amendments to deal with these two matters are set out in annex II.

[35] The major difference between UNAT and the ILOAT is that ILOAT judges prepare draft judgements in the cases allocated to them at least one month before the sittings commence. The same practice is followed by the judges of the World Bank Administrative Tribunal. Thus, the sittings are much shorter than those of UNAT.

[36] Apart from travel and per diem allowance, UNAT judges receive only $1 per annum. ILOAT judges are paid a daily subsistence allowance during their stay in Geneva at the rate applicable to the D-2 level and are reimbursed their travel expenses in accordance with the ILO Financial Rules. Until recently, the fee for a judge was 1,500 Swiss francs for a judgement in respect of which he or she was rapporteur and 375 SwF for a judgement in respect of which he or she was not rapporteur. As from the May 2006 session, these amounts were doubled. Were UNAT judges paid at the same rate and their draft judgements prepared in advance of the sittings, there would be some cost savings in relation to their per diem allowance.

Coordinator, at the P-2 level, is not financed from the regular budget. In Geneva, there is no full-time coordinator of the Panel, and the Secretary of JAB/JDC serves as acting coordinator in addition to his other functions. In Vienna and in Addis Ababa, retired staff members serve as volunteer coordinators of the Panel, while in Santiago the Coordinator assumed the part-time position in addition to another full-time position. In Nairobi there is no formal coordinator, although there is a part-time coordinator and an informal list of volunteers.

103. In all cases, the coordinators work with volunteers with varying degrees of availability. Offices of the Panel of Counsel do not exist in peacekeeping missions or other field duty stations. The essentially voluntary nature of service in the Panel of Counsel and the pressure of their regular duties for the serving staff members frequently combine to militate against effective representation.

104. In a reflection of the perception that the internal justice system is not independent, staff members who do not have permanent appointments are sometimes reluctant to serve on the Panel of Counsel. Further, they often believe that services as counsel could pit them against a management that has to review their employment contract.

105. Moreover, there is no requirement for legal training or qualifications for service in the Panel of Counsel, and an overwhelming majority of individuals serving as counsel on the Panel lack legal qualifications. While these counsel are committed to their duties and perform to the best of their abilities, a "system of justice" in which something as important as the provision of legal advice and assistance to staff members of the United Nations is frequently undertaken by non-lawyers is unsatisfactory.

106. The Redesign Panel notes that legal assistance to the management of the Organization is undertaken not by volunteers without legal training, but by a cadre of professional lawyers in the Department of Management and the Office of Legal Affairs. This disparity in legal resources available to the management and staff members has created an egregious inequality of arms in the internal justice system.

Proposed Office of Counsel

107. A professional Office of Counsel should be established for the United Nations, staffed by persons with legal qualifications — at the minimum, qualifications recognized by the courts of any Member State. They should serve on a full-time basis and be properly resourced. Considering that the Office of Counsel will cover not just the Secretariat but also the funds and programmes, it is proposed that the latter contribute to the resources of the Office.

108. The establishment of the Office of Counsel will not preclude voluntary service in the Panel of Counsel by retired staff members of organizations in the United Nations system who are qualified lawyers, as a back-up to full-time counsel. Nor will it preclude the possibility of recourse to outside counsel either on a pro bono basis or paid for personally by staff members.

109. Although the Office of Counsel should be based at Headquarters in New York, it should have coordinators in Geneva, Vienna, Nairobi, the regional economic commissions and peacekeeping missions with significant numbers of civilian staff. The coordinators in these regional duty stations should serve full-time in this

function. The Redesign Panel recommends that the General Assembly establish a post of the Director of Office of Counsel in New York at the D-1 level, plus one P-5 post of Senior Staff Counsel, two P-2 posts of Associate Staff Counsel and three General Service posts. There should also be posts of one Coordinator at the P-3 level and one General Service staff member at each of the following duty stations: Geneva, Vienna, Nairobi, Addis Ababa/Johannesburg, Santiago/Panama City and Amman/Beirut.

110. Representatives of the Office of Counsel in peacekeeping missions should report to the Director of the Office at Headquarters, but the necessary posts should be established as part of the budget of the mission. Given the large numbers of field offices and staff in Africa, the two regional offices in Nairobi and Addis Ababa/Johannesburg are necessary in order to give that region effective coverage.

111. To avoid conflicts of interest and to ensure independence, the proposed Office of Counsel should be relocated from the Department of Management to the proposed Office for the Administration of Justice.[37]

Legal representation of the Organization

112. The Redesign Panel is required by its terms of reference to consider the role of the Administrative Law Unit. There can be no doubt that under the existing system there is a conflict of interest insofar as the Administrative Law Unit advises on whether a decision should be reviewed or modified and, if not, later defends the position taken in a subsequent appeal.

113. The Panel is of the view that the review process should be abolished. The Administrative Law Unit could concentrate on its function as legal adviser to management.

114. Legal advisers are already available at most duty stations. However, with the decentralization of the justice system and the consequential delegation of authority to the executive heads of offices away from Headquarters and missions, it may be necessary to provide additional legal advisers in duty stations away from New York. It will also be necessary to designate legal representatives for each of the regions covered by the proposed new system.

VII. Education and training

115. The efficacy of the proposed reforms to both the formal and the informal justice systems depends on the careful education and training of all judges, ombudsmen, legal representatives, registrars, mediators and court and office staff. Due consideration must be given in all training programmes to the unique nature of the United Nations.

116. The new role of mediation in the proposed system requires particular attention, since its novelty and unfamiliarity, as well as the duty of confidentiality it imposes, require targeted training to ensure its successful implementation. In the informal

[37] See section IX on independence and transparency.

(vii)(b) the Ombudsman, the coordinating mediator and the mediators should be provided with training on the new justice system.

117. Judges should be provided with training to familiarize them with the Organization and its funds and programmes, in particular their administrative structures. As they should also be empowered to mediate disputes, they should undergo high level training in judicial mediation.

118. All registrars and registry staff should receive the same United Nations familiarization programme as the judges and should also be trained in court administration. This involves the case management of court files, handling requests for information and dealing with litigants. The training should comprise both an educational programme and rotating internships with international or national court systems that have developed efficient systems of court administration. If necessary, follow-up training can be provided by an outside senior court administrator. Finally, the registrars should undergo mediation training similar to that given to the judges.

119. Management should be provided with a training programme designed to familiarize them with the new system of justice and to promote the identification, prevention and settlement of workplace conflict, including with regard to accountability and cross-cultural issues.

VIII. Accountability

120. An integrated and effective system of accountability requires that managers assume authority and responsibility for their decisions and, if necessary, answer for them within the context of the management structure and the justice system.

121. In order to achieve an effective change in management culture and to properly address the prevailing perception that the present system shields managers from accountability, the Redesign Panel proposes that they personally answer for their acts and decisions and that the formal justice system entertain applications for the enforcement of individual financial accountability. Moreover, United Nations Dispute Tribunal judges should refer appropriate cases to the Secretary-General for possible action to enforce accountability.

IX. Independence and transparency

122. The introduction of a formal system of justice in which professional judges will make binding decisions will necessarily change the role of the Secretary-General. If the persons who took the decisions or actions in question are directly responsible for the defence of their actions, the Secretary-General will no longer be directly involved in litigation. In recognition of this, it is proposed that proceedings should be brought against the Organization or the relevant fund or programme, and not, as is currently the case, against the Secretary-General or the executive head of the fund or programme.[9] This will conform to the legal reality and also to the practice in other international organizations.

[9] Proceedings in UNAT are brought against the Secretary-General in cases where they concern the funds and programmes.

123. Moreover, it will allow the Secretary-General to be, and to be seen as, the guardian of the integrity of the internal justice system and protector of the rule of law. In this capacity, the Secretary-General will be able to ensure that both managers and staff abide by the spirit of the Charter, the applicable rules and regulations and international human rights standards.

124. For a system of justice to have institutional independence, it is essential that it have operational and budgetary autonomy. To ensure that independence, it is proposed that an Office of Administration of Justice be established, headed by an executive director at the rank of Assistant Secretary-General and appointed by the Secretary-General after consultation with staff. The executive director should have extensive experience within the United Nations system and possess legal qualifications. The role of the executive director will include:

(a) Overall administrative coordination of the internal United Nations justice system;

(b) Overall supervision and coordination of registries and the Office of Counsel;

(c) Coordination of the monitoring and oversight of the system;

(d) Liaison with the Office of Internal Oversight Services and other bodies whose work has an impact on the justice system;

(e) Identification of rules, regulations and administrative instructions that need to be changed to ensure substantive justice;

(f) Preparation of an annual report on the formal justice system for transmission by the Secretary-General to the General Assembly;

(g) Overall responsibility for the management of financial and budgetary matters for the formal justice system and the Office of Counsel, including interface with the General Assembly;

(h) Representation of the United Nations in meetings with other international administrative tribunals and similar bodies, and on the question of administration of justice in general.

125. For the formal system of justice to be truly independent, it is essential that it be properly resourced by regular budget allocations for posts and travel. Initially, it will also be necessary to provide for establishment costs, including hearing conference rooms, videoconferencing, sound recording, communication systems and up-to-date computer hardware and software.

126. An important aspect of judicial independence is that the judges must have sole responsibility for the management of their judicial activities. In the proposed new system, they will be assisted by registrars who will be under the overall supervision of the executive director but who will be directly responsible to the judges in relation to judicial matters. However, the key prerequisite for judicial independence is that judges be free from external influence. Thus, appointment and removal procedures, such as those proposed in the present report, must be put in place to ensure their independence.

127. It is proposed that a five-member Internal Justice Council be established, consisting of a staff representative, a management representative and two

distinguished external jurists, one nominated by the staff and one by management, and chaired by another distinguished external jurist appointed by the Secretary-General after consultation with the other four members. The Internal Justice Council will be responsible for monitoring the formal justice system and also for compiling a list of not fewer than three persons eligible to be appointed to each judicial position.

128. The judges of UNAT should be appointed by the General Assembly from the list prepared by the Internal Justice Council and submitted by the Secretary-General. The judges of the United Nations Dispute Tribunal should be appointed by the Secretary-General from the list prepared by the Internal Justice Council. The Dispute Tribunal judges should elect their own President, as is the case for UNAT. No two members of either Tribunal should be nationals of the same State.

129. To be eligible for appointment as a judge, a person should:

(a) Be of high moral character;

(b) Have the qualifications and recognized competence necessary for appointment to high judicial office;

(c) Have at least 10 years relevant professional experience in the case of the judges of the Dispute Tribunal and at least 15 years in the case of UNAT judges.

130. Judges of the Dispute Tribunal and of UNAT should be appointed for a term of five years, renewable once only, and be removable only by the General Assembly, at the request of the Secretary-General, and only on grounds of proven misconduct or incapacity. Furthermore, a person appointed as a judge should not be eligible for appointment to any other post within the United Nations, except another judicial post.

131. The principal registrar, registrars and other registry staff (including judges' staff) should be appointed as staff of the United Nations. The principal registrar and registrars should be appointed only after consultation with the President of UNAT and the appropriate Dispute Tribunal judge.

X. Cost-effectiveness

132. The strengthened Office of the Ombudsman, with the Mediation Division, will require additional resources, but only a modest increase over the current budgets of the three existing Ombudsman Offices [36]. However, the strengthened Office will bring considerable efficiency benefits to the justice system as a whole. The proposed system is designed to allow the informal and formal systems to work together to resolve disputes at the earliest possible stage. Increasing resources devoted to the prevention and early resolution of disputes will result in significant downstream savings for, and ensure the more efficient functioning of, the formal justice system.

133. The current formal system of justice is very costly and needs to be replaced by a cost-efficient system. The fact that the various advisory bodies are composed of volunteer staff members generates the illusion that they involve little cost. The truth is the exact opposite.

[36] See para. 48 above and footnote 17; see also annex IV.

134. There are currently four posts in the UNAT secretariat and not fewer than 16 devoted to the secretariats of the various advisory bodies (including the JDC for UNDP). Further, large numbers of staff are engaged in the work of the latter bodies at times when they would otherwise be performing their official duties.

135. There are 69 JAB and 40 JDC members in New York, 45 JAB and 27 JDC members in Geneva, 20 JAB and 10 JDC members in Vienna, and 24 JAB and 33 JDC members in Nairobi. In total, there are more than 250 staff members participating in the JABs and JDCs, who deal with not more than 250 cases in a given year.[40]

136. It is impossible to calculate precisely the time dedicated by staff to JAB and JDC work. However, in New York, the time dedicated by staff to JAB activities in 2005 was the equivalent of approximately 50 working weeks, while for JDC it was the equivalent of approximately 84 working weeks. It is estimated that in Geneva, for 2004 and 2005, staff members dedicated 2.2 working days to each JAB case and two working weeks to each JDC case, resulting in the equivalent of approximately 73 working weeks.

137. In addition to the direct cost of JABs and JDCs, account must be taken of the time and effort of those representing both staff and management in what are complicated and lengthy processes. Further, there are significant hidden costs resulting from delays, including, from time to time, the award of damages by UNAT for precisely that reason. Moreover, the lengthy nature of proceedings, the lack of due process and the uncertainty of outcome generate a climate of restlessness and demoralization, which exacts a heavy cost, not only on individual staff members, but also on work relations in the units in which they perform their functions and, ultimately, on the Organization as a whole.

138. The proposed new system will evidently require significant resources. However, they will be considerably less than if an imaginative effort were made to make the present system perform better — an effort that would still not guarantee an effective or efficient system. By contrast, the proposed new system will save time, provide due process and ensure predictability. This will reduce the demotivation and demoralization of staff and result in a more efficient use of the Organization's resources.

139. Suggested posts for the proposed formal system, the Office of the Ombudsman and the Office of Counsel are set out in annexes III, IV and V.

XI. Consequential and transitional measures

140. The Panel sees no insuperable difficulty in establishing a new system of internal justice that is fully functional by 1 January 2008. To that end, immediate steps should be taken to appoint the executive director of the Office of Administration of Justice. The executive director must be provided with sufficient staff and resources from the very beginning to undertake the necessary start-up work.

[40] In 2003 and 2004, the number of cases disposed by all JABs was 208 and 227, respectively; for the JDCs, the numbers were 26 and 24, respectively.

141. The JDCs and JABs will continue to function until the new system is operational. Accordingly, it is desirable to establish the Office of Counsel as soon as possible.

142. To ensure that the new formal system is functioning by 1 January 2008, it is essential to establish the Internal Justice Council at an early date so that it can compile lists of candidates for the timely appointment of United Nations Dispute Tribunal judges and the filling of any vacancies that occur within UNAT. It will be necessary to prepare a draft statute creating the Dispute Tribunal and amendments to the Statute of UNAT to confer appellate jurisdiction.

143. Early action should be taken to establish registries and to equip them with the requisite facilities. Although the executive director will be able to undertake much of this work, it is essential that there be someone with extensive experience in court administration to assist in the establishment of the registries and the training of the registrars and other registry staff. Additionally, it will be necessary to prepare forms and interim rules for the Dispute Tribunal and amendments to UNAT rules to cover its new appellate jurisdiction.

144. Perhaps the most important step to be taken before the Dispute Tribunal becomes operational is the preparation of a handbook setting out details of the new system and explaining how proceedings can be commenced. The handbook should be available in all six official languages of the United Nations and should be provided to all staff. The same information should be made available on the Intranet.

145. Additionally, the Administration will have to make the necessary arrangements for the delegation of authority to the executive heads of all duty stations with respect to disciplinary action. It will also be necessary to make amendments to the Staff Rules and Regulations and administrative instructions with respect to the setting aside of appointments where there has been a flawed appointment process and for the new judicial procedures.

146. Timely steps should be taken to establish standing panels on disciplinary matters and to select assessors for disciplinary cases.

147. Because the new system depends on the informal and formal systems complementing each other, it is essential that the unification and strengthening of the Office of the Ombudsman in the field by the appointment of Ombudsmen in offices away from Headquarters and field operations and by the establishment of the Mediation Division be completed by the time the new formal system comes into operation.

148. Finally, it will be necessary to make provision for clear transitional procedures in the statute establishing the United Nations Dispute Tribunal. In this regard, the Panel considers that the JABs and JDCs should proceed with all current matters and all matters filed until 1 January 2008, but that matters not disposed of by that date should be transferred to the Dispute Tribunal to be determined in accordance with the pleadings as filed and such further pleadings as may be directed.

XII. Conclusions

149. In adopting resolution 59/283 and authorizing the establishment of the Redesign Panel with wide terms of reference, the General Assembly took a major step towards comprehensive reform of the United Nations, in particular ensuring that the Secretariat, as one of the principal organs of the Organization, is brought under the rule of law. There could be no issue of greater importance for the management of the Organization than that there should be an efficient, independent and effective system of internal justice.

150. Thus, the Redesign Panel, after wide consultations, concludes that the dysfunctional system of administration of justice that currently exists is outmoded and inconsistent with the principles and aspirations of the United Nations, and needs to be replaced.

151. The Redesign Panel has undertaken its assignment with every sense of responsibility, cognizant of the special nature of the United Nations. The Panel believes that investing in a professional, independent, efficient and well-resourced internal justice system is an indispensable step in the renewal of the Organization. The overall design of the proposed new system is depicted in an organization chart in annex VI.

XIII. Recommendations

152. The Redesign Panel recommends the establishment by the General Assembly of a completely new system of administration of justice in the United Nations. The new internal justice system should be a professional, independent and decentralized one, fully consistent with international human rights standards.

153. The Redesign Panel recommends the early establishment of an Office of Administration of Justice in the United Nations, headed by an executive director with the rank of Assistant Secretary-General.

154. In this context, the Panel recommends the establishment of a two-tiered system of formal justice, comprising a first-instance decentralized tribunal, the United Nations Dispute Tribunal, composed of professional judges with power to make binding decisions and with jurisdiction as set out in annex I. The Tribunal should replace existing advisory bodies, including the Joint Appeals Boards and the Joint Disciplinary Committees, but not including the rebuttal panels and Classification Appeals and Review Committees.

155. The United Nations Administrative Tribunal should be renamed the United Nations Appeals Tribunal and its Statute amended to include a new appellate jurisdiction as set out in annex II.

156. The scope and jurisdiction of the informal and formal internal justice system should include all persons employed by the United Nations in a remunerated post or performing personal services under contract with the Organization.

157. Consultations should be held with the United Nations Joint Staff Pension Fund and other bodies subject to the administrative jurisdiction of the Administrative Tribunal with a view to amending its Statute to regard the definition of staff, to enable it to grant the relief it considers appropriate and otherwise to bring it into

harmony with the Statute of the Administrative Tribunal of the International Labour Organization.

158. The process of administrative review before action in the formal justice system should be abolished.

159. Managers and staff members should be held personally accountable for their decisions and actions. Accordingly, the formal justice system should entertain applications for the enforcement of individual financial accountability, and Dispute Tribunal judges should have power to refer appropriate cases to the Secretary-General for possible action to enforce that accountability.

160. Staff associations should have an independent right to bring a class or representative action on behalf of their members.

161. Full delegation of authority should be granted to special representatives of the Secretary-General heading peacekeeping and political missions and to heads of offices away from Headquarters in misconduct and disciplinary cases.

162. A clear framework of cooperation and coordination between the Office of Internal Oversight Services and the United Nations internal justice system should be established on a priority basis.

163. Standing Boards of Inquiry should be established in all peacekeeping missions of the United Nations, with full-time members in large missions.

164. The Redesign Panel recommends a single integrated but decentralized Office of the Ombudsman for the United Nations Secretariat and the funds and programmes.

165. The Secretary-General should appoint the United Nations Ombudsman; the Ombudsman for funds and programmes will be appointed by the executive heads of those bodies. A selection committee, composed of a staff representative, a management representative and two distinguished outside Ombudsmen, one appointed by the staff and one by management, and chaired by a third distinguished Ombudsman appointed jointly by the Secretary-General and the executive heads of the funds and programmes, should submit a list of not fewer than three names for each position of Ombudsman, taking into consideration the nature and the characteristics of these institutions.

166. The Office of the Ombudsman should be strengthened by combining the functions of formal mediation with proactive monitoring of maladministration.

167. A Mediation Division should be established within the Office of the Ombudsman.

168. The Panels on Discrimination and Other Grievances should be abolished; their functions, as they relate to the informal system, should be transferred to the Office of the Ombudsman and their other functions to the formal system of justice.

169. The Staff Rules and Regulations should be amended to allow the Secretary-General to declare a post vacant where the appointment process has been flawed.

170. A professionalized Office of Counsel should be established and located in the proposed Office of the Administration of Justice.

171. The Department of Peacekeeping Operations should take the necessary steps to identify the peacekeeping missions of adequate size that would benefit most from the services of Ombudsmen and coordinators of the Office of Counsel and ensure the inclusion of such posts in the missions' budget proposals.

172. Proceedings in the formal justice system should be brought against the Organization or the relevant fund or programme, not the Secretary-General or the executive heads.

173. An Internal Justice Council should be established to compile lists of candidates for appointment as judges in the Organization's internal justice system, and to monitor that system.

174. Judges of the United Nations Administrative Tribunal should be appointed by the General Assembly from the list of candidates prepared by the Internal Justice Council. In the case of the judges of the United Nations Dispute Tribunal, they should be appointed by the Secretary-General from the list prepared by the Internal Justice Council.

175. The new internal justice system should be provided with post resources as set out in annexes III, IV and V.

176. Subject to the approval of a new system of internal justice by the General Assembly, it should become operational on 1 January 2008.

177. Education and training will be the cornerstone of the successful operation of the new internal justice system. Intensive training should be provided to all persons involved in the internal justice system. Staff members should be provided with a simply written handbook on the new system in all six official languages of the United Nations as a matter of priority.

Signed by the members of the Redesign Panel and submitted to the Secretary-General on 20 July 2006 for transmission to the General Assembly.

Mary **Gaudron** Louise **Otis**

Ahmed **El-Kosheri** Diego **Garcia-Sayan** Kingsley C. **Moghalu**

Annex I

Jurisdiction of the United Nations Dispute Tribunal

The Tribunal shall be competent to hear and to pass final and binding judgement in the following matters:

(a) Complaints by individual staff members against the Organization or its funds and programmes:

(i) Alleging non-compliance with the terms of their appointment or the conditions of their employment;

(ii) With respect to decisions adversely affecting their interests, provided that, in the case of disputed decisions with respect to classification or performance appraisal, a complaint shall not be receivable unless the Classification Appeals and Review Committee or the rebuttal panel, as the case may be, has completed its consideration of the case;

(iii) Alleging prejudicial or injurious conduct that does not conform to the Staff Rules and Regulations or administrative instructions, that involves a breach of the duty of care, the duty to act in good faith or the duty to respect the dignity of staff members, that infringes their rights, including the right to equality, or was engaged in for an improper purpose, including reprisal for seeking the assistance of the Ombudsman's Office or for bringing action before the Tribunal;

(iv) With respect to the imposition of disciplinary measures;

(b) Applications by a staff association against the Organization or its funds and programmes:

(i) To enforce the Staff Rules and Regulations or associated administrative instructions;

(ii) On behalf of a particular class of its members affected by a particular administrative decision;

(c) Applications by the Organization or its funds and programmes to enforce staff and financial rules relating to accountability against individual staff members.

Notes

It will be necessary to define "staff" widely. It could, for example, be defined as follows:

"Staff" includes former staff and persons making claims in the name of deceased staff members and means all persons who perform work by way of their own personal service for the Organization, no matter the type of contract by which they are engaged or the body or organ by whom they are appointed but not including military or police personnel in peacekeeping operations, volunteers, interns or persons performing work in conjunction with the supply of goods or services extending beyond their own personal service or pursuant to a contract entered into with a supplier, contractor or a consulting firm.

It may be necessary to make special provision for UNRWA staff.

Annex II

Amendments to the Statute of the United Nations Administrative Tribunal to cover its new appellate jurisdiction

Article 2

Amend the first sentence of article 2 to read:

"The Tribunal shall be competent to hear and pass judgement upon appeals from decisions and judgements of the United Nations Dispute Tribunal and upon applications not falling within the jurisdiction of the United Nations Dispute Tribunal alleging non-observance of contracts of employment of staff members of the Secretariat of the United Nations or of the terms of appointment of such staff members."

Article 7

Insert a new subarticle 1 reading:

"1. An appeal shall not be receivable unless a notice of appeal is filed within 45 days of the decision or order that is the subject of the proposed appeal."

Renumber the existing subarticles 1, 2 (a), (b) and (c), 3, and 4 as 2 (a); 2 (b) (i), (ii) and (iii); 2 (c); and 2 (d), respectively.

Renumber subarticles 5, 6, and 7 as 3, 4 and 5, respectively.

Amend renumbered subarticles 4 and 5 to read:

"4. The filing of an appeal or of an application shall not have the effect of suspending the execution of the judgement or decision contested.

"5. Appeals and applications may be filed in any of the six official languages of the United Nations."

Article 8

Amend the first sentence of article 8 to read:

"Where the President or any two members of the Tribunal sitting in any particular case consider that the case raises a significant question of law, he or they may, at any time before they render judgement, refer the case for consideration by the whole Tribunal."

Article 10

Insert a new subarticle 1 reading:

"1. If the Tribunal finds that an appeal from a decision or judgement of the United Nations Dispute Tribunal is well founded, it shall allow the appeal, either in whole or in part, and make such order or orders as should have been made at first instance. Otherwise, it shall dismiss the appeal."

Renumber the existing subarticles 1, 2, and 3 as subarticles 2 (a), (b) and (c), respectively.

Amend the first sentence of renumbered subarticles 2 (a) to read:

"If the Tribunal finds that an application not falling within the jurisdiction of the United Nations Dispute Tribunal is well founded, it shall order the rescinding of the decision contested or the specific performance of the obligation invoked."

Amend the first sentence of renumbered subarticle 2 (b) to read:

"(b) Should the Tribunal find in relation to an application not falling within the jurisdiction of the United Nations Dispute Tribunal that the procedure prescribed in the Staff Regulations or Staff Rules has not been observed, it may, at the request of the Secretary-General and prior to the determination of the merits of the case, order the case remanded for institution or correction of the required procedure."

Annex III

Recommended posts: formal justice system

Level	*Total*	*Administration and support staff (Office of Director of Justice, New York)*	*Judiciary (United Nations Administrative Tribunal and United Nations Dispute Tribunal)*
ASG	1	1 Executive Director of the Office of the Administration of Justice (New York)	
Special			7 part-time UNAT judges, to be paid a proper honorarium
Special	5		1 New York UNDT Judge 1 Geneva UNDT Judge 1 Nairobi UNDT Judge } remunerated at the ASG level 2 half-time UNDT Judges in Santiago and Bangkok
D-1	1	1 Principal Registrar	
P-5	3	1 Principal Assistant to the ASG 1 New York Registrar 1 Geneva Registrar	
P-4	3	1 Nairobi Registrar 1 Santiago Registrar 1 Bangkok Registrar	
P-3	3	3 research staff for UNAT and for the Principal Registrar	
P-2/P-3	6		1 Assistant to New York UNDT judge (also to assist New York Registrar as needed) 1 Assistant to Geneva UNDT judge (also to assist Geneva Registrar as needed) 1 Assistant to Nairobi UNDT judge (also to assist Nairobi Registrar as needed) 2 Assistants to half-time UNDT judges (also to assist Santiago and Bangkok Registrars as needed)
G-5/G-7	7	1 for ASG 1 for Principal Registrar (to assist ASG, New York Registrar and UNAT judges as needed) 1 for New York Registrar 1 for Geneva Registrar 1 for Nairobi Registrar 1 for Santiago Registrar 1 for Bangkok Registrar	

Annex IV

Recommended posts: Office of the Ombudsman

Level	*Total*	*Administration and support staff*	*Ombudsmen and mediators*
ASG	1		1 United Nations Ombudsman (New York)
D-2	1		1 Ombudsman for Funds and Programmes (New York)
D-1	7	1 Principal Officer of the Office of the Ombudsman (New York)	1 Regional Ombudsman (Geneva) 1 Regional Ombudsman (Nairobi) 1 Regional Ombudsman (Bangkok) 1 Regional Ombudsman (Amman/Beirut) 1 Regional Ombudsman (Santiago/Panama) 1 Coordinating Mediator (Mediation Division, New York)
P-5	2		1 Deputy Regional Ombudsman (Addis Ababa/Johannesburg) 1 Deputy Regional Ombudsman (Vienna)
P-4	4	2 Legal Officers (New York)	2 Mediators (Mediation Division, New York)
P-2/P-3	6	1 Case Officer/Legal Officer (Geneva) 1 Case Officer/Legal Officer (Nairobi) 1 Case Officer/Legal Officer (Bangkok) 1 Case Officer/Legal Officer (Amman/Beirut) 1 Case Officer/Legal Officer (Santiago/Panama) 1 Legal Officer (Mediation Division, New York)	
G-5/G-7	9	1 (Geneva) 1 (Nairobi) 1 (Bangkok) 1 (Amman/Beirut) 1 (Santiago/Panama) 3 (New York) 1 (Mediation Division, New York)	
Consultants			On-call international mediators, paid case by case

Notes

The current system (regrouping three offices of the Ombudsman/Ombudsperson/Mediator) has the following posts: one ASG, seven D-1 (including the three Ombudsmen for Geneva, Vienna and Nairobi already budgeted for 2007), one P-5, two P-4, two P-3, six General Service and four consultant Ombudspersons who are paid up to $30,000 each.

The proposed new system will require 11 new posts — one D-2, one P-5, two P-4, four P-2/P-3, three G-5 — and will save up to $120,000 a year, since the four consultant Ombudspersons will no longer be required.

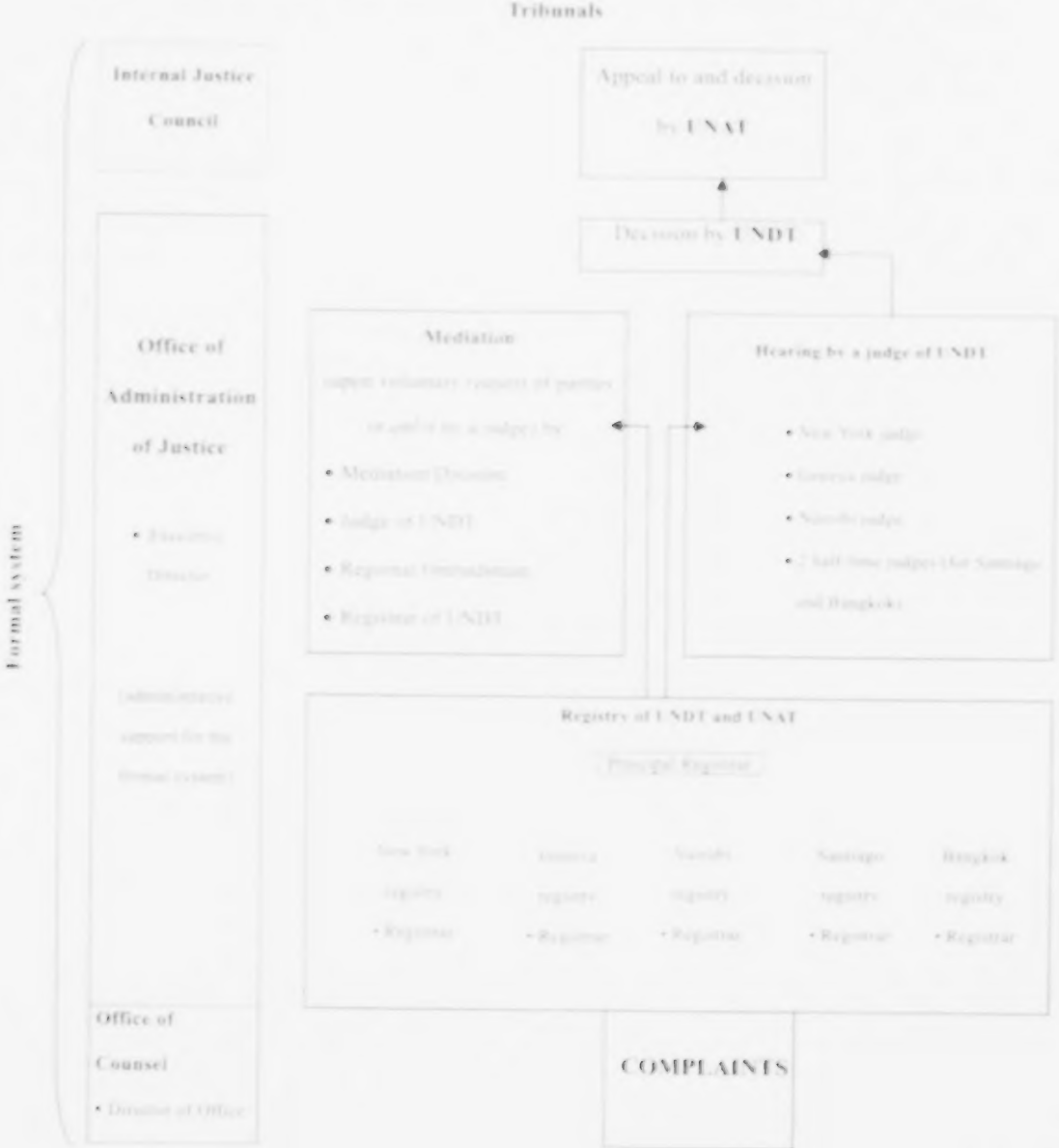
Annex V

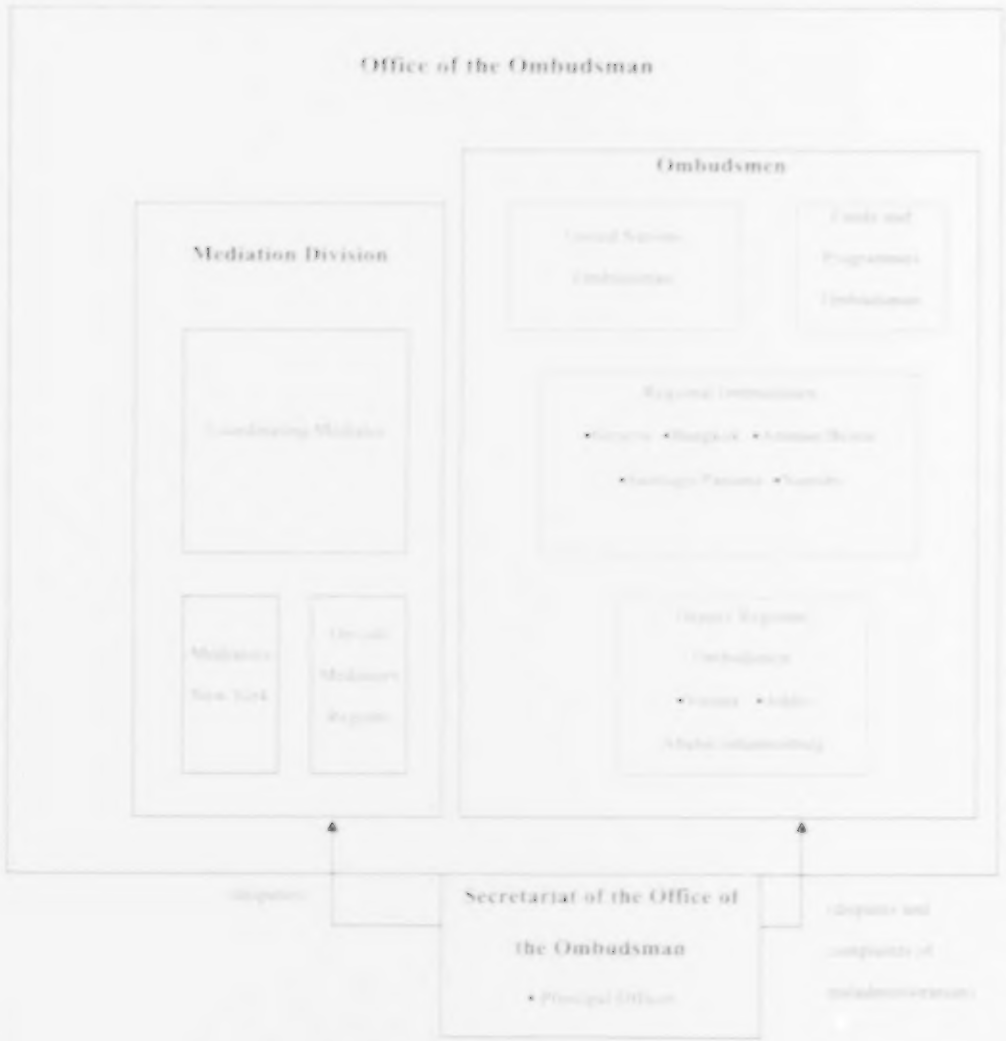
Recommended posts: Office of Counsel

Level	Number	Functional title	Location
D-1	1	Director of the Office of Counsel	(New York)
P-5	1		Senior Staff Counsel (New York)
P-4	6		Regional Coordinating Counsel (Geneva)
			Regional Coordinating Counsel (Vienna)
			Regional Coordinating Counsel (Nairobi)
			Regional Coordinating Counsel (Addis Ababa, Ethiopia)
			Associate Coordinating Counsel (Santiago, Panama)
			Regional Coordinating Counsel (Amman, Beirut)
P-2/P-3	2		Staff Counsel (New York)
G-5/6/7	4	Client Assist	
		Counsel	
		Counsel	
		Counsel	
		Admin. Officer (Human Rights)	
		Paralegal Assistant	
		Assistant Counsel	

Annex VI

Proposed system of United Nations internal justice




Office of the Ombudsman
Ombudsmen
Mediation Division
Informal system
Secretariat of the Office of the Ombudsman
• Principal Officer